

DISTRICT COURT OF NSW
AT SYDNEY

Form 2 (version 3)
Rule 6.2

on 15 JUL 2008

STATEMENT OF CLAIM



[REDACTED]

Court District Court of New South Wales
Division
List
Registry Sydney
Case number 3199/08

[REDACTED]

Plaintiff Kathleen Monica BILES
Number of plaintiffs 13

First Defendant STATE OF NEW SOUTH WALES
Number of defendants 1

[REDACTED]

Filed for Plaintiffs
Address for service c/- Women's Legal Services NSW
PO Box 206, Lidcombe NSW 1825
DX address n/a
Telephone (02) 9749 7700
Fax (02) 9749 4433
Reference number JL:DH:B410/07

[REDACTED]

Intended hearing venue Sydney

The Plaintiff claims:

1. Damages -
2. Interest;
3. Costs.

RECEIVED BY: *SR/and*
TIME: *16:36*
DATE: *15th July 2008*
SERVED ON CROWN SOLICITOR'S OFFICE

[REDACTED]

The Plaintiff relies on the following facts and assertions:

1. These proceedings are brought against the Defendant as Crown pursuant to the Crown Proceedings Act, 1988 (NSW).
2. At all material times, the Defendant was responsible for the operation of the Department of Youth and Community Services and later the Department of Community Services.
3. At all material times, the Defendant funded the Bethcar Children's Home at Brewarrina ("Bethcar") and allowed it to operate as a facility providing foster and other live-in care for children.
4. Over the period from 1970 to 1989, each of the Plaintiffs were either:
 - (a) removed from their parents and families by the Defendant and committed to the care of the relevant Minister to be dealt with as a Ward admitted to State control, or
 - (b) placed in foster or fulltime live-in care by their families.
5. At all material times, the Defendant was responsible for the care and well being of each of the Plaintiffs.
6. The Defendant caused and/or allowed the Plaintiffs to be placed in the care and under the control of Bert and Edith Gordon ("the Gordons") at the Bethcar Children's Home at Brewarrina ("Bethcar") and/or later at Anson Street, Orange in the State of New South Wales.
7. At all material times, the Defendant retained and/or allowed the Gordons to provide care for the Plaintiffs in circumstances where the Gordons were the Defendants agents.
8. Whilst the Plaintiffs were residing at Bethcar, they were also exposed to and at times allowed to be placed in the care of Colin and AIT [REDACTED].
9. At all material times, the Plaintiffs were children aged between 2 months and 16 years.
10. The Defendant owed each of the Plaintiffs a duty of care.
11. Whilst at Bethcar and Orange, the Plaintiffs suffered injury when subjected to physical, mental, emotional and sexual abuse perpetrated by the Gordons and Colin Gibson.

12. Such abuse constituted an egregious assault for which the Defendant is vicariously liable.
13. Further, or alternatively, the injuries suffered by the Plaintiffs arose by reason of the Defendants negligence.

PARTICULARS OF NEGLIGENCE

- (a) The Defendant failed in its duty to the Plaintiffs by not assessing or properly assessing and screening those people who administered care to the Plaintiffs.
- (b) The Defendant failed to make regular and proper checks to ensure the wellbeing of the Plaintiffs.
- (c) The Defendant failed to commission properly trained assessors to check on the wellbeing of the Plaintiffs.
- (d) The Defendant failed to provide adequate and reasonable checks on the Plaintiff's to ensure their wellbeing.
- (e) The Defendant failed to act on reports of abuse of the Plaintiffs and therefore to prevent further abuse of the Plaintiffs.
- (f) The Defendant failed generally in its duty of care to the Plaintiffs and as a result they have suffered injury.
- (g) The Defendant allowed the Plaintiffs to be exposed to and placed under the care of Colin Gibson.
- (h) The Defendant failed to have in place a properly devised protocol to screen and review children for signs of physical, sexual and emotional abuse.
- (i) The Defendant failed to conduct regular detailed physical and emotional evaluation of the Plaintiffs.
- (j) The Defendant allowed the Plaintiffs to be in a dangerous environment with no facility for notifying abuse.

PARTICULARS OF INJURY, LOSS AND DAMAGE

See Statement of Particulars filed pursuant to Part 15, r15.2 of the Uniform Civil Procedure Rules 2005.

[REDACTED]

Signature *J. Loughman*
 Name Janet Loughman
 Capacity Principal Solicitor, Women's Legal Services NSW
 Solicitor for plaintiff
 Date 15 July 2008

[REDACTED]

I certify that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim for damages in these proceedings has reasonable prospects of success.

Signature *J. Loughman*
 Name Janet Loughman
 Capacity Principal Solicitor, Women's Legal Services NSW
 Solicitor for plaintiff
 Date 15 July 2008

[REDACTED]

PLAINTIFF

First Plaintiff

Family name Biles
 Given names Kathleen Monica
 Address C/- Women's Legal Services NSW
 PO Box 206, Lidcombe NSW 1825

Second Plaintiff

Family name [REDACTED]
 Given names [REDACTED]

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Address Same as First Plaintiff

Third Plaintiff

Family name

AIE

Given names

AIE

Address

Same as First Plaintiff

Fourth Plaintiff

Family name

Moore

Given names

Jodie Belinda

Address

Same as First Plaintiff

Fifth Plaintiff

Family name

AIG

Given names

AIG

Address

Same as First Plaintiff

Sixth Plaintiff

Family name

Villaflor (aka Gibson)

Given names

Amy Denise

Address

Same as First Plaintiff

Seventh Plaintiff

Family name

AIH

Given names

AIH

Address

Same as First Plaintiff

Eighth Plaintiff

Family name

AIN

Given names

AIN

Address

Same as First Plaintiff

Ninth Plaintiff

Family name **Moore**
Given names **Amelia Florence**
Address **Same as First Plaintiff**

Tenth Plaintiff

Family name **Knight**
Given names **Leonie**
Address **Same as First Plaintiff**

Eleventh Plaintiff

Family name **AIQ**
Given names **AIQ**
Address **Same as First Plaintiff**

Twelfth Plaintiff

Family name **AIS**
Given names **AIS**
Address **Same as First Plaintiff**

Thirteenth Plaintiff

Family name **AIF**
Given names **AIF**
Address **Same as First Plaintiff**

PLAINTIFF'S REPRESENTATIVE**Solicitor on the record**

Name	Janet Loughman
Practising certificate number	3338
Firm	Women's Legal Services NSW, Principal Solicitor, Janet Loughman
Address	PO Box 206, Lidcombe NSW 1825
Telephone	(02) 9749 7700
Fax	(02) 9749 4433
Agrees to electronic service	yes

DEFENDANT

Name	State of New South Wales
Address	C/- The Crown Solicitor Crown Solicitor's Office 60-70 Elizabeth Street SYDNEY NSW 2000



You can respond by:

- Agreeing to the claim
- Filing a defence and/or making a cross-claim against the plaintiff
- If money is being claimed, paying the plaintiff all of the money and any interest claimed
- If money is being claimed, signing an agreement with the plaintiff to pay the money.

You can get further information about the forms you need to file to respond to this statement of claim from:

- The registry
- A legal practitioner
- LawAccess NSW on 1300 888 529 or at www.lawaccess.nsw.gov.au.

NOTICE TO DEFENDANT

You will be in default, if you do not file a defence within 28 days of being served with this statement of claim. The court may enter judgment against you without any further notice to you. The judgment may be for the relief sought in the statement of claim and for the plaintiff's costs for bringing these proceedings.

REGISTRY ADDRESS

Street address John Maddison Tower, 86 Goulburn Street
Sydney NSW 2000

Postal address District Court Civil Registry
PO Box K1026
HAYMARKET NSW 2000

Telephone (02) 9377 5840