

ORDERS OF THE [REDACTED] 09

Coram: Judge Truss  
Court 16C JMT

16 October 2009

Appearances:  
Mr J Catsanos & Ms H Wall for Plaintiffs  
Mr P Saidi for Defendant + PWA

FILE Nos: 2218/08 & 3199/08

AIL [REDACTED] & ORS V STATE OF NEW SOUTH WALES

ORDERS & NOTATIONS

In relation to the defendant's amended notice of motion filed 28 July 2009:

1. Noted that:

- all plaintiffs allege that the defendant's duty of care arose when they were placed in the home irrespective of the circumstances under which this occurred; and
- the duty alleged is one which arises at common law and arises out of the defendant's duty to observe its statutory obligations.

2. Order that each plaintiff identify the nature of such statutory obligations by reference to the relevant legislation including the applicable parts or sections.

3. As to the pleading of vicarious liability noted that the plaintiffs do not allege that Mr & Mrs Gordon or Mr & Mrs Gibson were employees of the defendant but that they allege that these persons were the defendant's agents.

4. Order that each plaintiff identify the material facts and circumstances which support the allegations of vicarious liability on the basis that Mr and/or Mrs Gordon and/or Mr and/or Mrs Gibson were the defendant's agents.

5. Order that a separate statement in compliance with Rule 15.12 be filed and served in respect of each of the <sup>15</sup> plaintiffs, such statement to be as comprehensive as the instructions of the plaintiffs' solicitor permit and to attach all available supporting documentation.

6. Order that the particulars referred to in paragraphs 2, 4 & 5 be supplied by 27 November 2009.

7. Grant liberty to either party to apply in relation to these orders within 7 days, that is, by Friday 23 October 2009.

8. Vacate the directions hearing on 16 November 2009 and re-list for directions on 8 December 2009.

9. Reserve costs of today.

Judge