

DISTRICT COURT OF NSW
FILED
AT SYDNEY

on 20 NOV 2012

Form 26A (version 2)
UCPR 33.3



**SUBPOENA TO PRODUCE
with SUBPOENA NOTICE AND DECLARATION**

COURT DETAILS

| | |
|-------------|-----------------------------------|
| Court | District Court of New South Wales |
| Division | Civil |
| Registry | Sydney |
| Case number | 2008/316976 |

TITLE OF PROCEEDINGS

| | |
|----------------------|---------------------------------|
| Third plaintiff | Kathleen Monica BILES |
| Number of plaintiffs | 14 |
| Defendant | STATE OF NEW SOUTH WALES |

ISSUING DETAILS

| | |
|--------------------------------|---|
| Issued at request of | Plaintiff |
| Legal representative | Janet Loughman, Principal Solicitor Women's Legal Services NSW |
| Legal representative reference | JL:CS:B410/07 |
| Contact name and telephone | Charissa Sun (02) 8745 6900 |
| Address for service | PO Box 206, Lidcombe NSW 1825 |

ORDER TO THE SUBPOENA RECIPIENT

| | |
|---------|--|
| Name | Mr I V Knight Crown Solicitor's Office |
| Address | Level 5, 60-70 Elizabeth Street, Sydney NSW 2000 |

You are ordered to produce this subpoena or a copy of it and the documents or things specified in the Schedule to the court.

PROPOSED ACCESS ORDER

No proposed access order because this matter is part heard in the District Court of New South Wales before His Honour Judge J Curtis, has been adjourned, and is listed for further Hearing on 13 December 2012 in relation to the defendant's claim for privilege.

NOTICE TO THE SUBPOENA RECIPIENT

- 1 Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.
- 2 The last day for service of this subpoena is 5 December 2012.
- 3 Please read notes 1 to 15 included in this document.
- 4 You must complete the Declaration appearing on the last page of this document and attach it to the subpoena or copy of the subpoena that accompanies the documents or things produced to the Court under the subpoena.

Any enquiries concerning compliance with the subpoena should be directed to the Contact person named above.

HOW TO RESPOND

You must comply with this subpoena:

- by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below to the address below at the time, date and place specified for production, or
- by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the address below so that they are received not less than 2 clear days before the date specified for production. (See notes 5 – 9.)

DATE TIME AND PLACE AT WHICH YOU MUST ATTEND TO PRODUCE THE SUBPOENA OR A COPY OF IT AND DOCUMENTS OR THINGS

| | |
|-------|---|
| Date | 13 December 2012 |
| Time | 10am |
| Place | District Court of New South Wales John Maddison Tower 86 Goulburn Street, Sydney NSW 2000 |

ADDRESS TO WHICH THE SUBPOENA (OR COPY) AND DOCUMENTS OR THINGS MAY BE DELIVERED OR POSTED

District Court Civil Registry

PO Box K1026

Haymarket NSW 2000

SCHEDULE

In this subpoena the following definitions apply:

| Term | Meaning |
|-------------------------------|--|
| <i>The plaintiffs' claims</i> | The claims by the plaintiffs in matters number 2218/2008 and 3199/2008, consolidated as matter number 2008/316976. |
| <i>Communications</i> | Letters, emails, faxes, and records of conversations. |
| <i>The defendant</i> | The defendant, as identified in these proceedings, and the defendant's legal representatives. |
| <i>Peter Maxwell</i> | Peter Maxwell the person, Maxwell Investigation, and any employee or agent thereof. |
| <i>Factual Investigations</i> | All documents, statements (signed or unsigned), records of interview, file notes, memoranda, lists and details of witnesses or potential witnesses, diagrams, notes, audio and/or visual recordings, photographs, electronic communications, reports, and records. |

The documents or things you must produce are as follows:

1. In hard copy or electronic copy stored in/on any form of media, all communications between the defendant and Peter Maxwell in relation to all or any aspects of the plaintiffs' claims.
2. Copies of the documents produced to the District Court pursuant to the in court call by the plaintiff on 14 November 2012.
3. In hard copy or electronic copy stored in/on any form of media, the material comprising the Factual Investigation referred to in paragraph 2 of the affidavit of Peter Maxwell sworn 17 May 2011 and all other Factual Investigations in relation to all or any aspects of the plaintiffs' claims.
4. Drafts of any of the material detailed in paragraphs 1 to 3 (inclusive) above.

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 serving the subpoena.

Informal service

- 2 Even if this subpoena has not been served personally on you in accordance with the rules, 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, or if more than one address is so specified, to any one of those addresses, 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 If the subpoena requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.
- 9A The copy of a document may be:
- (a) a photocopy; or

- (b) in any electronic form that the issuing party has indicated will be acceptable.
- 10 You must complete the Declaration appearing on the last page of this document and attach it to the subpoena or copy of the subpoena that accompanies the documents or things produced to the Court under the subpoena.
- 11 If you declare that the material you produce is copies of documents, the Registrar may, without further notice to you, destroy the copies after the expiry of a period of four months from the conclusion of the proceeding or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal.
- 12 If the material you produce to the Court is or includes any original document, the Court will return all of the material to you at the address specified by you in the Declaration below.

Applications in relation to subpoena

- 13 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

- 14 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.

Failure to comply with subpoena—arrest

- 15 Failure to comply with a subpoena without lawful excuse:
- (a) is a contempt of court and may be dealt with accordingly.
- (b) may lead to your arrest under section 97 Civil Procedure Act or under rules of the court to enforce compliance with a subpoena.

DECLARATION BY SUBPOENA RECIPIENT

[tick the relevant option below, (provide your address as appropriate), sign and date]

- All of the material I am providing to the Court in compliance with the attached subpoena is copies of documents. I acknowledge that the Court will destroy the copies once they are no longer required, without further notice to me.**
- Some or all of the material I am providing to the Court in compliance with the attached subpoena is an original document. Once the material is no longer required, all of the material should be returned to me at the following address:**

Address at which produced items should be returned (if applicable)

Signature of subpoena recipient

Name of subpoena recipient

Date of signature
