

## **AMENDED STATEMENT OF CLAIM**

### **COURT DETAILS**

Court	Supreme Court of NSW
Division	Common Law
List	General
Registry	Sydney
Case number	2021/10183

### **TITLE OF PROCEEDINGS**

First plaintiff	<b>Christopher John Dunne</b>
Second plaintiff	<b>Linda Margaret Waters</b>
First <del>Defendant</del>	<b>Moin &amp; Associates Pty Ltd ACN 098 920 971</b>
Second <del>defendant</del>	<b><del>Gregory Robert Moin</del></b>

### **FILING DETAILS**

Filed for	<b>Christopher John Dunne and Linda Margaret Waters,</b> plaintiffs
Legal representative	Peter Pardy, APJ Law
Legal representative reference	PCP:181123
Contact name and telephone	Peter Pardy – (02) 6776 4500
Contact email	ppardy@apjlaw.com.au

### **TYPE OF CLAIM**

[Select type of claim from the list provided in section 6 of the Guide to preparing documents, available on the UCPR website at [www.ucprforms.justice.nsw.gov.au](http://www.ucprforms.justice.nsw.gov.au) or at any NSW court registry]

Other – Judge (Common Law)

### **RELIEF CLAIMED**

- 1 Damages
- 2 Interest pursuant to s 100 of the *Civil Procedure Act 2005* (NSW)
- 3 Costs

**PLEADINGS AND PARTICULARS****A      ~~The Plaintiffs and Group Members~~**4      The First Plaintiff (**Mr Dunne**):

- a      is a natural person;
- b      is married to the Second Plaintiff (**Ms Waters**);
- c      currently resides at the rural property "The Range", 1430 Enmore Road, Enmore NSW 2350 (**The Range**), which is near Armidale NSW, with Ms Waters;
- d      is a grazier;
- e      with Ms Waters, runs a mixed farming operation on The Range; and
- f      from around May 2015 to January 2018 was a client of the First Defendant (**Moin & Associates**).

5      The Second Plaintiff (**Ms Waters**):

- a      is a natural person;
- b      is married to Mr Dunne;
- c      currently resides at the Range with Mr Dunne;
- d      is a grazier;
- e      with Mr Waters, runs a mixed farming operation on The Range; and
- f      from around May 2015 to January 2018 was a client of Moin & Associates.

**B      The Defendants**

## 6      Moin &amp; Associates:

- a      is the First Defendant;
- b      is a corporation able to sue and be sued in its corporate name;
- c      in or around November 2001, became an incorporated legal practice;
- d      from in or around November 2001 to in or around June 2018, provided legal services;
- e      on 21 June 2005, obtained the business name Northern Star Conveyancing;
- f      conducted conveyancing work under the business name Northern Star Conveyancing;

- g from in or around June 2005 to on or around 30 January 2018, employed Sandra Henri Edmonds (**Mrs Edmonds**) as a licensed conveyancer.

7 ~~The Second Defendant (**Mr Moin**):~~

- a ~~is a natural person;~~
- b ~~since 30 November 2001 has been the sole director of Moin & Associates;~~
- c ~~from 30 November 2001 to date is the principal solicitor of Moin & Associates;~~
- d ~~since 19 June 2018, has been a director of Moin Morris Schaefer Pty Ltd ACN 626 922 245 (**Moin Morris Schaefer**);~~
- e ~~since in or around June 2018, has been the principal solicitor of Moin Morris Schaefer;~~
- f ~~from in or around June 2005 to on or around 30 January 2018, supervised Mrs Edmonds; and~~
- g ~~on or around 30 January 2018, terminated Mrs Edmonds' employment.~~

**C Group Members**

- 8 Mr Dunne and Ms Waters bring these proceedings pursuant to s 157 of the *Civil Procedure Act 2005* (NSW) on their own behalf and on behalf of the group members, being those persons who:

- a from time-to-time from June 2014 to October 2017, engaged Moin & Associates either directly or through its trading name Northern Star Conveyancing to provide legal services, including conveyancing work, and received legal services, including conveyancing work, from Moin & Associates (**Client Relationship**); and

**Particulars**

The legal services provided included but were not limited to:-

- i. conveyancing services;
- ii. preparations of wills, power of attorneys and appointment of enduring guardians; and
- iii. preparation of leases, mortgages and related documents.
- b from June 2014 to October 2017, were invited by Mrs Edmonds, either directly or through an agent who made representations on behalf of Mrs Edmonds, to purchase shares in Base Suspension Pty Ltd ACN 114 800 734

(**Base Suspension**) by purchasing shares in DSJSE Pty Ltd ACN 600 083 789 (**DSJSE**);

ba in the course of interactions about the sale of the shares referred to above in sub-paragraph b, Mrs Edmonds, or a third party on behalf of Mrs Edmonds, made representations to, which representations are identical or similar to the representations made to Mr Dunne and Mrs Waters (plaintiffs):

**Particulars**

The representations made to the plaintiffs are pleaded at paragraphs 20-20F below.

The representations made to the Group Members are pleaded at a general level at paragraphs 38E-38F below.

Linda Andrews was the third party who made the representations on behalf of Mrs Edmonds.

bc from June 2014 to October 2017, Mrs Edmonds purported to sell shares in Base Suspension to:

c from June 2014 to October 2017, provided funds to DSJSE or Mrs Edmonds to purchase shares in Base Suspension; and

**Particulars**

The group members paid to Mrs Edmonds or an account nominated by Mrs Edmonds a total of about \$1,172,338.

d are listed on ~~an~~ in Schedule 1 to this Statement of Claim  
(**Group Members**).

**D Base Suspension, DSJSE and Mrs Edmonds**

9 Mrs Edmonds:

a from on or around 26 July 2010 to 30 June 2019, was a licensed conveyancer;

b from at least June 2014 to October 2017, was married to David Edmonds (**Mr Edmonds**);

c from in or around ~~June 2005~~ July 2010 to on or around 30 January 2018, was employed by Moin & Associates as a licensed conveyancer;

d was the sole director of DSJSE from 12 June 2014 to 23 January 2018;

e held 12 ordinary shares in DSJSE from 12 June 2014 to 27 July 2015;

- f held 681 ordinary shares in DSJSE from 28 July 2015 to 8 February 2016;
- g held 2,495 ordinary shares in DSJSE from 9 February 2016 to 18 January 2017;
- h held 6,000 ordinary shares in DSJSE from 19 January 2017; and
- i caused the register of members for DSJSE to be changed on 28 May 2018.

#### Particulars

ASIC Document No 9EAA00679, Change to Company Details lodged on  
8 May 2018 by Mrs Edmonds

#### 10 Base Suspension:

- a was incorporated on 17 June 2005;
- b on 29 December 2016, changed its name to Base Air Management Ltd;
- c from 28 January 2011 to 28 December 2016, was known as Base Suspension;
- d develops suspension technology for trucks, trailers and buses;
- e from at least 17 June 2014, had a share structure of 90,671 ordinary shares.

#### 11 DSJSE:

- a was incorporated on 12 June 2014;
- b from 12 June 2014 to 27 July 2015, had a share structure of 12 ordinary shares with each share being worth \$1;
- c from 28 July 2015 to 8 February 2016, had a share structure of 681 ordinary shares with each share being worth \$1;
- d from 9 February 2016 to 18 January 2017, had a share structure of 2,495 ordinary shares with each share being worth \$1; and
- e from 19 January 2017, had 6,000 ordinary shares with each share being worth \$1.

12 Before 17 June 2014, Mrs Edmonds and Mr Edmonds acquired 454 ordinary shares in Base Suspension (**Edmonds Base Shares**).

13 The Edmonds Base Shares formed part of an undilutable share base of Base Suspension that could only be sold if the relevant shareholder held at least 1% of shares or 907 shares.

**Particulars**

Investment Proposal – Base, 25 February 2013

- 14 On or about 17 June 2014, Mr and Mrs Edmonds transferred the Edmonds Base Shares to DSJSE.

**Particulars**

DSJSE paid \$45.45 for the 454 ordinary shares in Base Suspension

- 15 Between 17 June 2014 and 25 October 2016, DSJSE held 454 ordinary shares in Base Suspension.
- 16 On 26 October 2016, DSJSE acquired an additional 454 ordinary shares in Base Suspension from Lasmart Pty Ltd.
- 17 Since 26 October 2016, DSJSE has held 908 ordinary shares in Base Suspension.

**E Mrs Edmonds' fraudulent conduct towards the plaintiffs**

- 18 From around ~~June 2014 to October 2017~~ May 2015 to around September 2015, Mrs Edmonds purported to sell shares in Base Suspension (**Purported Base Shares**) to ~~the Group Members~~ the plaintiffs (**Purported Base Shares**).

**Particulars**

Mrs Edmonds purported to effect the sale of shares in Base Suspension by selling shares in DSJSE which held shares in Base Suspension

- 19 In exchange for the Purported Base Shares, the ~~plaintiffs Group Members~~ paid to Mrs Edmonds or an account nominated by Mrs Edmonds ~~for~~ a total of about \$352,000 ~~\$1,552,338.00~~.

**Particulars**

~~See particulars at paragraph 30 below.~~

The plaintiffs made the payments by way of cheque on about 10-11 May 2015, 21-22 August 2015 and 8-9 September 2015.

- 19A From around May 2015 to around September 2015, in the course of interactions with the plaintiffs about the sale of the Purported Base Shares, Mrs Edmonds:
- a interacted with the plaintiffs at the office of Moin & Associates in Armidale;  
and
- b communicated with the plaintiffs using her work phone.
- 19B In or around May 2015, Mrs Edmonds undertook legal work for or in the presence of the plaintiffs.

### Particulars

The legal work undertaken by Mrs Edmonds included the preparation of wills, powers of attorney and enduring guardianships.

20 From around ~~June 2014 to on or around October 2016~~ May 2015 to around September 2015, in the course of interactions with the ~~Group Members~~ plaintiffs about the sale of the Purported Base Shares, Mrs Edmonds made the following express representations were made to the plaintiffs ~~Group Members~~:

a Mrs Edmonds was an owner of the sole director and shareholder in DSJSE;

### Particulars

Mrs Edmonds made this representation orally.

b DSJSE held shares in Base Suspension;

### Particulars

Mrs Edmonds made this representation orally.

c Base Suspension held intellectual property in an air suspension system for trucks which was being commercialised in North America;

### Particulars

Mrs Edmonds made this representation orally or by the provision of a prospectus for Base Suspension.

d the value of shares in Base Suspension was going to increase imminently in the short-term (**Base Shares Value Representation**);

### Particulars

On or around 7 May 2015, Mrs Edmonds told Mr Dunne and Ms Waters that the cost of one share was \$5,000 and that one share would be worth \$25,000 in around 18 months to two years' time.

~~e one share in DSJSE was equivalent to one share in Base Suspension~~ (**DSJSE Equivalence Representation**);

f Mrs Edmonds was selling shares in Base Suspension owned by her, or was selling her shares in DSJSE itself holding shares in Base Suspension or was selling shares in Base Suspension on behalf of a third party (**Saleability Representation**);

### Particulars

Mrs Edmonds made this representation orally and by providing documents titled "Share transfer form" to Mr Dunne and Ms Waters.

- g Mrs Edmonds would complete all paperwork to transfer shares from DSJSE to the plaintiffs (Paperwork Representation); and

**Particulars**

On or around 10 and 11 May 2015, and in or around 21 and 22 August 2015, Mrs Edmonds told Mr Dunne and Ms Waters that she would draw up the documents for the share transfer, register that documentation and provide a copy of that documentation to Mr Dunne and Ms Waters.

- ~~h Mrs Edmonds would transfer shares from DSJSE to each Group Member after they paid for the Purported Base Shares (**Transfer Representation**);~~  
~~i in transferring money to Mrs Edmonds, a Group Member was acquiring a fixed number of Purported Base Shares (**Acquisition Representation**).~~

**Particulars**

~~The fixed number of Purported Base Shares was a fixed number shares in DSJSE and, by reason of the DSJSE Equivalence Representation, the same number of shares in Base Suspension.~~

- ~~j the proceeds from the sale of the Purported Base Shares were intended for the purpose of the growth of either Northern Star Conveyancing or Moin & Associates (**Application Representation**).~~

**Particulars**

Mrs Edmonds made this representation orally.

- 20A By reason of paragraph 18 above, the representation pleaded at paragraph 20b above and the Saleability Representation, from around May 2015 to around September 2015, in the course of interactions with the plaintiffs about the sale of the Purported Base Shares, Mrs Edmonds made the following representations to the plaintiffs:

- a one share in DSJSE was equivalent to one share in Base Suspension (**DSJSE Equivalence Representation**); and  
b in transferring money to Mrs Edmonds, the plaintiffs were acquiring a fixed number of Purported Base Shares (**Acquisition Representation**).

**Particulars**



(a) The fixed number of Purported Base Shares was the same fixed number of shares in DSJSE.

(b) The DSJSE Equivalence Representation and the Acquisition Representation are implied.

20B By reason of paragraph 18 above, the Paperwork Representation and the Acquisition Representation, from around May 2015 to around September 2015, in the course of interactions with the plaintiffs about the sale of the Purported Base Shares, Mrs Edmonds represented to the plaintiffs that she would transfer shares from DSJSE to the plaintiffs after they paid for the Purported Base Shares (Transfer Representation).

**Particulars**

The Transfer Representation is implied.

20C By reason of paragraphs 18 and 20 above, from around May 2015 to around September 2015, in the course of interactions with the plaintiffs about the sale of the Purported Base Shares, Mrs Edmonds represented to the plaintiffs that she had the appropriate skills and expertise to advise the plaintiffs on their investment in DSJSE and Base Suspension (Expertise Representation).

**Particulars**

The Expertise Representation is implied.

20D By reason of paragraphs 9c and 19A above and the Application Representation, from around May 2015 to around September 2015, in the course of interactions with the plaintiffs about the sale of the Purported Base Shares, Mrs Edmonds represented to the plaintiffs that she was an owner of Moin & Associates (Ownership Representation).

**Particulars**

The Ownership Representation is implied.

20E By reason of paragraphs 6g, 9a, 9c and 19B above, from around May 2015 to around September 2015, in the course of interactions with the plaintiffs about the sale of the Purported Base Shares, Mrs Edmonds made the following representations to the plaintiffs:

- a. she could undertake legal work beyond conveyancing; and
- b. she was authorised to undertake legal work

**(Legal Work Representations).**

**Particulars**

The Legal Work Representations are implied.

20F By reason of paragraphs 6g, 9a, 9c and 19A above and the Application Representation. in the course of interactions with the plaintiffs about the sale of the Purported Base Shares, Mrs Edmonds made the following representations to the plaintiffs:

- a she was authorised to assist in the management of Northern Star Conveyancing and Moin & Associates; and
- b she was authorised to make business decisions for Northern Star Conveyancing and Moin & Associates

(Authority Representations).

**Particulars**

The Authority Representations are implied.

21 ~~The representations in paragraph 20 above were made by Mrs Edmonds to the Group Members, or by a third party on behalf of Mrs Edmonds to the Group Members.~~

**Particulars**

~~Linda Andrews was the third party who made the representations on behalf of Mrs Edmonds.~~

22 ~~The representations in paragraph 20 above were express.~~

23 ~~At the time of making the Base Shares Value Representation to Group Members, Mrs Edmonds knew that it was false.~~

24 ~~At the time of making the DSJSE Equivalence Representation to Group Members, Mrs Edmonds knew that it was false.~~

**Particulars**

See paragraphs 11b-e and 14-15 above.

25 ~~At the time of making the Saleability Representation to Group Members, Mrs Edmonds knew that it was false.~~

26 ~~At the time of making the Transfer Representation to Group Members, Mrs Edmonds knew that it was false.~~

**Particulars**

(a) When the plaintiffs Group Members transferred paid money to Mrs Edmonds or an account third party nominated by her as set out in paragraph 19 above, Mrs

Edmonds did not transfer shares from DSJSE to each ~~Group Member~~ the plaintiffs.

(b) On 28 May 2018, Mrs Edmonds lodged a "Change to Company Details" form with ASIC, which changed the register of members to include, amongst others, the Group Members.

27 At the time of making the Paperwork Representation to ~~Group Members~~, Mrs Edmonds knew that it was false.

#### **Particulars**

Mrs Edmonds failed to prepare share transfers for the plaintiffs from her to the ~~Group Members of her issued share capital of DSJSE at all or at a value consistent with the Transfer Representation.~~

28 At the time of making the Acquisition Representation to ~~Group Members~~, Mrs Edmonds knew that it was false.

28A At the time of making the Application Representation, Mrs Edmonds knew that it was false.

28B At the time of making the Expertise Representation, Mrs Edmonds knew that it was false.

28C At the time of making the Legal Work Representations, Mrs Edmonds knew that it was, in part, false.

#### **Particulars**

As a conveyancer, the nature of the legal work that Mrs Edmonds could undertake was limited and did not include all legal work that can be undertaken by a solicitor.

29 At the time of making each of the Base Shares Value Representation, Saleability Representation, Paperwork Representation, Application Representation, DSJSE Equivalence Representation, Acquisition Representation, Transfer Representation, Expertise Representation and Legal Work Representations to the plaintiffs representations referred to in paragraphs 21-28 (**Edmonds Misrepresentations**) to ~~Group Members~~, Mrs Edmonds intended that each ~~Group Member~~ the plaintiffs would rely on the ~~Edmonds Misrepresentations~~ those representations to purchase ~~the Purported Base Shares by transferring money to Mrs Edmonds or an account a third party~~ nominated by her.

30 The plaintiffs ~~Group Members~~ acted in reliance on the Base Shares Value Representation, Saleability Representation, Paperwork Representation, Application Representation, DSJSE Equivalence Representation, Acquisition Representation,

Transfer Representation, Expertise Representation and/or Legal Work Representations the Edmonds Misrepresentations in transferring money to Mrs Edmonds or an account nominated by her to purchase the Purported Base Shares.

**Particulars**

<b>Group Member</b>	<b>Bank transfer or cheque?</b>	<b>Purpose of transfer</b>	<b>Date of transfer / cheque</b>	<b>Amount of transfer / cheque</b>	<b>Account to which transferred / cheque payee</b>
Dunne and L Waters	Cheque	35 Shares	10 May 2015	\$175,000.00	DJ & SH Edmonds
	Cheque	35 shares for \$105,000.00 and loan to Edmonds for \$105,000.00	22 August 2015	\$210,000.00	DJ & SH Edmonds
Ruurda	Cheque	20 Shares	23 June 2014	\$74,805.00	DJ & SH Edmonds
	Cheque	10 Shares	17 July 2014	\$37,402.50	DJ & SH Edmonds
Harmer	EFT	2 Shares	20 June 2014	\$7,480.50	Sandra Edmonds Community Mutual Account
	EFT	5 Shares	In or about August 2015	\$25,000.00	To be further particularised
D Waters	EFT	Part Payment 129 Shares	12 May 2015 to 18 May 2015	\$80,000.00	Edmonds Community

		being 20% of company			Mutual Account
	Cash	Part payment of 129 Shares being 20% of company	21 May 2015	\$20,000.00	Sandra Edmonds
Parsons	EFT	20 Shares	21 March 2016 — 24 March 2016	\$200,000.00	Edmonds Community Mutual Account
Troost	EFT	6 Shares	27 June 2015 — 4 July 2015	\$30,000.00	Edmonds Community Mutual Account
Ross-Smith	EFT	10 Shares	14 May 2015	\$50,000.00	Account provided by Andrews
	EFT	20 Shares	19 August 2015	\$100,000.00	Account provided by Andrews
Alter	EFT	4 shares	7 April 2015	\$23,650.00	Edmonds nominated account
		10 shares	To be further particularised	\$40,000.00	Edmonds nominated account
Estate Talbert	EFT	12 Shares	19 March 2015	\$74,000.00	Edmonds nominated account
Andrews	Bank Transfer	10 shares	July 2015	\$50,000.00	Edmonds nominated account

	Bank transfer	6 shares	In or about July 2015	\$30,000.00	Edmonds nominated Account
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31 — ~~Certain of the Group Members acted in reliance on the Edmonds Misrepresentations in transferring money to Mrs Edmonds or an account nominated by her to pay for alleged broker services and counsel fees relating to the sale of the Purported Base Shares.~~

**Particulars**

D Waters	EFT	Part Broker Fees	19 July 2016	\$25,000.00	Edmonds Community Mutual Account
		Part Broker Fees	20 July 2016	\$3,000.00	Edmonds Community Mutual Account
	EFT	Barrister fees	5 December 2016	\$10,000.00	Edmonds Community Mutual Account
Ruurda	Cheque	Loan	31 October 2016	\$20,000.00	DJ & SH Edmonds
Harmer	EFT	Broker fees	6 September 2017	\$69,000.00	Jon Redden BSB: 033-047 Acct: 275694
	EFT	Broker fees	6 September 2017	\$20,000.00	Jon Redden BSB: 033-047 Acct: 275694

	EFT	Broker fees	20 September 2017	\$79,000.00	Edmonds NAB Account
	EFT	Broker fees	27 September 2017	\$86,000.00	Edmonds NAB Account
	EFT	Broker fees	9—October 2017	\$13,000.00	Edmonds NAB account

~~Insert table with money transferred other than for purpose of acquiring shares. If we include money that was repaid, exclude this from the claim for damages.~~

- 32 In transferring the money referred to in paragraph 19 34 above and in reliance on the Base Shares Value Representation, the Saleability Representation, the Paperwork Representation, the DSJSE Equivalence Representation, the Acquisition Representation, the Transfer Representation and/or the Expertise Representation Edmonds Misrepresentations, the plaintiffs Group Members thought that they were acquiring Purported Base Shares.

### Particulars

The plaintiffs thought that they were acquiring 100 shares.

<b>Group Member</b>	<b>Number of Purported Base Shares that Group Members thought they were purchasing</b>
Dunne and Waters	70 Shares
Ruurda	30 Shares
Harmer	7 Shares
Waters	129 Shares being 20% of Company
Parsons	20 Shares
Treost	6 Shares
Ross-Smith	30 Shares
Alter	14 Shares
Estate Talbert	12 Shares
Andrews	16 Shares

- 33 By reason of paragraphs 18-~~30~~34 above, Mrs Edmonds engaged in the tort of deceit against the plaintiffs Group Members (Edmonds Fraud).
- 34 By reason of paragraphs 18-~~33~~30 above, the plaintiffs Group Members suffered loss and damage.

#### **Particulars**

The loss and damage suffered was the money paid by the plaintiffs to Mrs Edmonds or an account nominated by her, as pleaded at paragraph 19 above.:

- ~~(a) the money transferred by Group Members to Mrs Edmonds or her nominated third party for the acquisition of the Purported Base Shares (see paragraph 30 above); and~~
- ~~(b) other transfers by certain Group Members to Mrs Edmonds or her nominated third party for alleged payment of broker fees and counsel fees relating to the sale of the Purported Base Shares (see paragraph 30 above)~~

- 35 ~~By reason of the Edmonds Misrepresentations including but not limited to the Base Shares Value Representation; DSJSE Equivalence Representation; Saleability Representation; Paperwork Representation; Transfer Representation; and the Acquisition Representation, Mrs Edmonds has been indicted Director of Public Prosecutions NSW on 40 charges pursuant to Section 192E of the Crimes Act 1900 (NSW)~~

#### **F Moin & Associates is vicariously liable for Mrs Edmonds' fraudulent conduct**

- 35A At least between around May 2015 to around September 2015, the plaintiffs held Mrs Edmonds in high esteem because of her association with Moin & Associates.

#### **Particulars**

Mrs Edmonds' association with Moin & Associates included:

- a. her employment with Moin & Associates;
- b. that Mrs Edmonds was a shareholder of Moin & Associates;
- c. that Mrs Edmonds was seen by the plaintiffs to undertake legal work at Moin & Associates; and
- d. that Mrs Edmonds was seen by the plaintiffs to have a management role and a role in making business decisions for Northern Star Conveyancing and Moin & Associates.



35B At least between around May 2015 to around September 2015, the plaintiffs held Moin & Associates and Northern Star Conveyancing in high esteem.

35C By reason of paragraphs 6g, 9c and 35A above, the Ownership Representation, the Legal Work Representations and the Authority Representations, Mrs Edmonds was in a position of power, trust and control in relation to the plaintiffs (Power Relationship).

35D In her interactions with the plaintiffs in at least May 2015 to September 2015 in relation to undertaking legal work, Mrs Edmonds was unsupervised at Moin & Associates.

36 Mrs Edmonds committed the Edmonds Fraud in the course or scope of her employment with Moin & Associates.

### Particulars

Mrs Edmonds' employment with Moin & Associates provided the occasion for the Edmonds Fraud because of the following factors Mrs Edmonds:-

(a) the Client Relationship;

(b) Mrs Edmonds made the representations referred to in paragraphs 20-20F in the context of her employment with Moin & Associates, including at its premises, in the course of providing legal services and using the resources of Moin & Associates;

(c) the matter pleaded at paragraph 35D above;

(d) the Power Relationship provided Mrs Edmonds with the opportunity to credential the Edmonds Fraud.

~~(a) Mrs Edmonds was unsupervised by the Principal of the firm and in the scope of Mrs Edmonds' employment with Moin & Associates:-~~

~~Made representations that she was:-~~

~~i. A Solicitor;~~

~~ii. A partner of Moin & Associates ("Position Misrepresentations")~~

~~(b) That the Position Misrepresentations and her employment created a position of power, trust and control;~~

~~(c) assigned Mrs Edmonds a role which placed her vis-à-vis with the class members;~~

~~(d) That Mrs Edmonds used her employment to provide the occasion for the Edmonds Fraud empowered by the Position Misrepresentation~~

~~(e) Mrs Edmonds used the Position Misrepresentations to provide legal services to the Group Members to credential the Edmonds Fraud.~~

37 By reason of paragraph 36 above, Moin & Associates was vicariously liable for the Edmonds Fraud committed by Mrs Edmonds.

38 By reason of paragraph 37 above, the ~~plaintiffs~~ ~~Group Members~~ claim the loss and damage at paragraph 34 above, interest in accordance with s 100 of the *Civil Procedure Act 2005 (NSW)* and costs from Moin & Associates.

~~G~~ ~~Mr Moin is vicariously liable for Mrs Edmonds' fraudulent conduct~~

~~39~~ ~~The Group Members repeat paragraph 36 above.~~

~~40~~ ~~Mr Moin supervised Mrs Edmonds in the course of her matters with the Group Members.~~

**Particulars**

~~Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015 (NSW) r 37~~

~~41~~ ~~By reason of paragraphs 7c, 7f, 39 and 40 above, Moin & Associates was vicariously liable for the Edmonds Fraud committed by Mrs Edmonds.~~

~~42~~ ~~By reason of paragraph **Error! Reference source not found.** above, the Group Members claim the loss and damage at paragraph 34 above, interest in accordance with s 100 of the *Civil Procedure Act 2005 (NSW)* and costs from Moin & Associates.~~

**F1 Mrs Edmonds' fraudulent conduct against the Group Members**

38A From around June 2014 to around October 2017, Mrs Edmonds purported to sell the Purported Base Shares to the Group Members.

**Particulars**

The particulars to paragraph 18 above are repeated.

38B In exchange for the Purported Base Shares, the Group Members paid to Mrs Edmonds or an account nominated by Mrs Edmonds a total of about \$1,172,338.

**Particulars**

The Group Members made payments from around June 2014 to around October 2017.

38C From around June 2014 to around October 2017, in the course of interactions with some Group Members about the sale of the Purported Base Shares, Mrs Edmonds interacted with some Group Members at the office of Moin & Associates in Armidale.

38D From around June 2014 to around October 2017, Mrs Edmonds undertook legal work for or in the presence of the Group Members.

38E From around June 2014 to around October 2017, in the course of interactions with Group Members about the sale of the Purported Base Shares, Mrs Edmonds made the following representations to the Group Members:

- a the representations pleaded at paragraphs 20-c above;
- b the Base Shares Value Representation;
- c the Saleability Representation;
- d Mrs Edmonds would complete all paperwork to transfer shares from DSJSE to the Group Members;
- e the Application Representation;
- f the DSJSE Equivalence Representation;
- g in transferring money to Mrs Edmonds, the Group Members were acquiring a fixed number of Purported Base Shares;

**Particulars**

Particular (a) to paragraph 20A above is repeated.

- h Mrs Edmonds would transfer shares from DSJSE or Base Suspension to the Group Members after they paid for the Purported Base Shares;
- i Mrs Edmonds had the appropriate skill and expertise to advise the Group Members on their investments in DSJSE and Base Suspension;
- j the Ownership Representation;
- k the Legal Work Representations; and
- l the Authority Representations.

**Particulars**

The representations made to Group Members are either express or implied. They are also either oral or in writing. They were all made by Mrs Edmonds in the course of her interactions with Group Members about the sale of the Purported Base Shares.

38F The representations in paragraph 38E above were made by Mrs Edmonds to the Group Members, or by a third party on behalf of Mrs Edmonds to the Group Members.

**Particulars**

Linda Andrews was the third party who made the representations on behalf of Mrs Edmonds.

38G The plaintiffs repeat paragraphs 23, 24, 25, 28A and 28C above.

38H At the time of making the representation pleaded at paragraph 38E(d) above, Mrs Edmonds knew that it was false.

**Particulars**

Mrs Edmonds failed to prepare share transfers for the Group Members.

38I At the time of making the representation pleaded at paragraph 38E(g) above, Mrs Edmonds knew that it was false.

38J At the time of making the representation pleaded at paragraph 38E(h) above, Mrs Edmonds knew that it was false.

**Particulars**

(a) When each Group Member paid money to Mrs Edmonds or an account nominated by her as set out in paragraph 38B above, Mrs Edmonds did not transfer shares from DSJSE or Base Suspension to each Group Member.

(b) The plaintiffs repeat the particular (b) to paragraph 26 above.

38K At the time of making the representation pleaded at paragraph 38E(i) above, Mrs Edmonds knew that it was false.

38L At the time of making each of the Base Shares Value Representation, Saleability Representation, Application Representation, DSJSE Equivalence Representation, Legal Work Representations and the representations pleaded at paragraphs 38E(d), 38E(g), 38E(h) and 38E(i) above to each Group Member, Mrs Edmonds intended that each Group Member would rely on those representations to purchase the Purported Base Shares by transferring money to Mrs Edmonds or an account nominated by her.

38M The Group Members acted in reliance on the Base Shares Value Representation, Saleability Representation, Application Representation, DSJSE Equivalence Representation, Legal Work Representations and/or the representations pleaded at paragraphs 38E(d), 38E(g), 38E(h) and/or 38E(i) above in transferring money to Mrs Edmonds or an account nominated by her to purchase the Purported Base Shares.

38N Certain Group Members acted in reliance on the Base Shares Value Representation, Saleability Representation, Application Representation, DSJSE Equivalence Representation, Legal Work Representations and/or the representations pleaded at paragraphs 38E(d), 38E(g), 38E(h) and/or 38E(i) above in transferring money to Mrs Edmonds or an account nominated by her to pay for alleged broker services and counsel fees relating to the sale of the Purported Base Shares.

**Particulars**

The total sum paid by Group Members was approximately \$325,000 as follows:

- (a) Dean Waters paid approximately \$28,000 for broker fees on about 19-20 July 2016 and approximately \$10,000 for barrister fees on 5 December 2016;
- (b) the Ruurdas paid approximately \$20,000 as loan on about 31 October 2016;
- (c) Paul Harmer paid approximately \$267,000 for broker fees in about September 2016.

38O In transferring the money referred to in paragraphs 38B and 38M above and in reliance on the Base Shares Valuation, the Saleability Representation, the DSJSE Equivalence Representation and/or the representations pleaded at paragraphs 38E(d), 38E(g), 38E(h) and/or 38E(i) above, the Group Members thought that they were acquiring Purported Base Shares.

**Particulars**

<b><u>Group Member</u></b>	<b><u>Number of Purported Base Shares that Group Members thought they were purchasing</u></b>
<u>Ruurda</u>	<u>30 Shares</u>
<u>Harmer</u>	<u>7 Shares</u>
<u>Waters</u>	<u>129 Shares being 20% of Company</u>
<u>Parsons</u>	<u>20 Shares</u>
<u>Troost</u>	<u>6 Shares</u>
<u>Ross-Smith</u>	<u>30 Shares</u>
<u>Alter</u>	<u>14 Shares</u>
<u>Estate Talbert</u>	<u>12 Shares</u>
<u>Andrews</u>	<u>16 Shares</u>

38P By reason of paragraphs 38A-38M above, Mrs Edmonds engaged in the tort of deceit against the Group Members.

38Q By reason of paragraphs 38A-38O, the Group Members suffered loss and damage.

**Particulars**

The loss and damage suffered was the money paid by the Group Members to Mrs Edmonds or an account nominated by her, as pleaded at paragraphs 38B and 38M above.

38R At least between around June 2014 to around October 2017, the Group Members held Mrs Edmonds in high esteem because of her association with Moin & Associates.

**Particulars**

(a) The plaintiffs repeat particulars (a) and (b) to paragraph 35A above.

(b) Mrs Edmonds' association with Moin & Associates included that:

i. Mrs Edmonds was seen by the Group Members to undertake legal work at Moin & Associates;

ii. Mrs Edmonds was seen by the Group Members to have a management role and a role in making business decisions for Northern Star Conveyancing and Moin & Associates.

38S At least between around June 2014 to around October 2017, the Group Members held Moin & Associates and Northern Star Conveyancing in high esteem.

38T By reason of paragraphs 6g, 9c and 38S above, the Ownership Representation, the Legal Work Representations and the Authority Representations, Mrs Edmonds was in a position of power, trust and control in relation to the Group Members.

38U In her interactions with the Group Members in at least June 2014 to October 2017 in relation to undertaking legal work, Mrs Edmonds was unsupervised at Moin & Associates.

38V Mrs Edmonds engaged in the conduct pleaded at paragraph 38P above in the course of or within the scope of her employment with Moin & Associates.

**Particulars**

(a) The plaintiffs repeat particular (a) to paragraph 36 above.

(b) Mrs Edmonds' employment with Moin & Associates further provided the occasion for the conduct pleaded at paragraph 38P above because of the following factors:

i. Mrs Edmonds made the representations referred to in paragraph 38E above in the context of her employment with Moin & Associates, including at its premises, in the course of providing legal services and using the resources of Moin & Associates;

ii. paragraphs 38T and 38U above.

38W By reason of paragraph 38V above, Moin & Associates was vicariously liable for the conduct pleaded at paragraph 38P above.

38X By reason of paragraph 38W above, the Group Members claim the loss and damage at paragraph 38Q above, interest in accordance with 100 of the *Civil Procedure Act* and costs from Moin & Associates.

## H Common Questions

43 The questions of law or fact common to the claims of the First and Second Plaintiffs and each of the Group Members are:

- a ~~whether from around June 2014 to in or around June 2016, Mrs Edmonds or a third party on behalf of Mrs Edmonds made any or all of Edmonds Misrepresentations;~~
- b if Mrs Edmonds made the following representations~~any or all of Edmonds Misrepresentations~~, or asked a third party to make any or all of the Edmonds Misrepresentations on her behalf, whether Mrs Edmonds knew that those representations were false at the time that they were made;
- i. Base Shares Value Representation;
  - ii. Saleability Representation;
  - iii. Paperwork Representation;
  - iv. Application Representation;
  - v. DSJSE Equivalence Representation;
  - vi. Acquisition Representation;
  - vii. Transfer Representation;
  - viii. Expertise Representation;
  - ix. Legal Work Representations, in part;
  - x. Authority Representations;
- c whether Mrs Edmonds engaged in the tort of deceit ~~or fraud~~;
- d if Mrs Edmonds engaged in the tort of deceit ~~or fraud~~, whether she did so in the course or scope of her employment with Moin & Associates;
- e ~~if Mrs Edmonds engaged in the tort of deceit or fraud, whether she did so under the supervision of Mr Moin~~ whether, in her interactions with Group Members, Mrs Edmonds was unsupervised at Moin & Associates; and
- f if Mrs Edmonds engaged in the tort of deceit ~~or fraud~~, whether Moin & Associates and / or Mr Moin is vicariously liable for her conduct.;
- g ~~whether Moin & Associates and / or Mr Moin are liable for the money paid by Group Members set out above at paragraph 30;~~



~~h whether Moin & Associates and / or Mr Moin are is liable for the money paid by Group Members for alleged payment of broker fees and counsel fees relating to the sale of the Purported Base Shares set out above at paragraph 30.~~

### **SIGNATURE OF LEGAL REPRESENTATIVE**

I certify under clause 4 of Schedule 2 to the Legal Profession Uniform Law Application Act 2014 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.

I have advised the plaintiffs that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.

Signature



Capacity

Solicitor on the Record

Date of signature

28<sup>th</sup> November 2022

### **NOTICE TO DEFENDANT**

**If you do not file a defence within 28 days of being served with this statement of claim:**

- **You will be in default in these proceedings.**
- **The court may enter judgment against you without any further notice to you.**

The judgment may be for the relief claimed in the statement of claim and for the plaintiff's costs of bringing these proceedings. The court may provide third parties with details of any default judgment entered against you.

### **HOW TO RESPOND**

**Please read this statement of claim very carefully. If you have any trouble understanding it or require assistance on how to respond to the claim you should get legal advice as soon as possible.**

You can get further information about what you need to do to respond to the claim from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au).
- The court registry for limited procedural information.



You can respond in one of the following ways:

- 1 If you intend to dispute the claim or part of the claim, by filing a defence and/or making a cross-claim.**
- 2 If money is claimed, and you believe you owe the money claimed, by:**
  - Paying the plaintiff all of the money and interest claimed. If you file a notice of payment under UCPR 6.17 further proceedings against you will be stayed unless the court otherwise orders.
  - Filing an acknowledgement of the claim.
  - Applying to the court for further time to pay the claim.
- 3 If money is claimed, and you believe you owe part of the money claimed, by:**
  - Paying the plaintiff that part of the money that is claimed.
  - Filing a defence in relation to the part that you do not believe is owed.

Court forms are available on the UCPR website at [www.ucprforms.justice.nsw.gov.au](http://www.ucprforms.justice.nsw.gov.au) or at any NSW court registry.

#### **REGISTRY ADDRESS**

Street address	5 Moore Street ARMIDALE NSW 2350
Postal address	PO Box 91 ARMIDALE NSW 2350
Telephone	(02) 6775 4600

**#AFFIDAVIT VERIFYING**

Name Christopher John Dunne  
 Address "The Range" Enmore via Uralla NSW 2358.  
 Occupation Farmer/Grazier  
 Date 28/11/22.

I affirm:

- 1 I am the first plaintiff.
- 2 I believe that the allegations of fact in the statement of claim are true.

AFFIRMED at ARMIDALE  
 Signature of deponent CJ Dunne  
 Name of witness Bruin Lee Hutchings  
 Address of witness Suite 14, 126-128 Betty St Armidale NSW.  
 Capacity of witness Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]  
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.\*~~
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]  
~~#I have confirmed the deponent's identity using the following identification document:→~~

\_\_\_\_\_  
 Identification document relied on (may be original or certified copy) †

Signature of witness

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

[\* The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[† "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011.]

**PARTY DETAILS****PARTIES TO THE PROCEEDINGS****Plaintiffs**Christopher John Dunne **First Plaintiff**Linda Margaret Waters **Second Plaintiff**~~Daniel Alter **Third Plaintiff**~~~~Daniel Alter as the executor of the Estate of~~~~Patricia Mary Talbert **Fourth Plaintiff**~~~~Julianne Marie Parsons **Fifth Plaintiff**~~~~Brian Keith Parsons **Sixth Plaintiff**~~~~Dean Ross Waters **Seventh Plaintiff**~~~~Christopher Alan Ross-Smith **Eighth**~~~~**Plaintiff**~~~~Judith Alice Ross-Smith **Ninth Plaintiff**~~~~Paul Andrew Harmer **Tenth Plaintiff**~~~~David Leo Troost **Eleventh Plaintiff**~~~~Brian Townsend **Twelfth Plaintiff**~~~~Antonious Hendrikus Ruurda **Thirteenth**~~~~**Plaintiff**~~~~Denise Lesley Ruurda **Fourteenth Plaintiff**~~~~Linda Kay Andrews **Fifteenth Plaintiff**~~**Defendants**Moin & Associates Pty Ltd **First Defendant**~~Gregory Robert Moin **Second Plaintiff**~~**FURTHER DETAILS ABOUT PLAINTIFF[S]****First plaintiff**

Name	Christopher John Dunne
Address	'The Range' Melrose Road ENMORE VIA URALLA NSW 2358

**Second plaintiff**

Name	Linda Margaret Waters
Address	'The Range' Melrose Road ENMORE VIA URALLA NSW 2358

**Third plaintiff**

Name Daniel Alter  
Address 13 Oak Tree Drive  
ARMIDALE NSW 2350

**Fourth plaintiff**

Name Daniel Alter as the executor of the Estate of Patricia Mary Talbert  
Address 13 Oak Tree Drive  
ARMIDALE NSW 2350

**Fifth plaintiff**

Name Julianne Marie Parsons  
Address 158 Markham Street  
ARMIDALE NSW 2350

**Sixth plaintiff**

Name Brian Keith Parsons  
Address 158 Markham Street  
ARMIDALE NSW 2350

**Seventh plaintiff**

Name Dean Ross Waters  
Address 6 Centennial Close  
ARMIDALE NSW 2350

**Eighth plaintiff**

Name Christopher Alan Ross-Smith  
Address PO Box 1078  
MALENY QLD 4552

**Ninth plaintiff**

Name Judith Alice Ross-Smith

**Address** PO Box 1078  
MALENY QLD 4552

**Tenth plaintiff**

**Name** Paul Andrew Harmer  
**Address** 134 Hillside Road  
AVOCA BEACH NSW 2251

**Eleventh plaintiff**

**Name** David Leo Troost  
**Address** 315 Paddys Plain Road  
DORRIGO NSW 2453

**Twelfth plaintiff**

**Name** Brian Townsend  
**Address** 1315 Green Street  
BELLBROOK NSW 2440

**Thirteenth plaintiff**

**Name** Antonious Hendrikus Ruurda  
**Address** 41 Merinda Drive  
PORT MACQUARIE NSW 2444

**Fourteenth plaintiff**

**Name** Denise Lesley Ruurda  
**Address** 41 Merinda Drive  
PORT MACQUARIE NSW 2444

**Fifteenth plaintiff**

**Name** Linda Kay Andrews

Address PO Box 1169  
ARMIDALE NSW 2350

**Legal representative for plaintiffs**

Name Peter Cecil Pardy  
Practising certificate number  
Firm APJ Law  
Address Suite 14 Hanna's Arcade  
126-128 Beardy Street  
ARMIDALE NSW 2350  
DX address 6001 ARMIDALE  
Telephone (02) 6776 4500  
Fax (02) 6776 4533  
Email ppardy@apjlaw.com.au  
Electronic service address ppardy@apjlaw.com.au

**DETAILS ABOUT DEFENDANT[S]**

**First defendant**

Name Moin & Associates Pty Ltd  
Address Pastoral Chambers  
111 Faulkner Street  
ARMIDALE NSW 2350

**Second defendant**

Name Gregory Robert Moin  
Address 27 Ash Tree Drive  
ARMIDALE NSW 2350

# SCHEDULE 1

Christopher John Dunne

Linda Margaret Waters

Daniel Alter

The Estate of Patricia Mary Talbert

Julianne Marie Parsons

Brian Keith Parsons

Dean Ross Waters

~~Christopher Alan Ross-Smith~~

~~Judith Alice Ross-Smith~~

Paul Andrew Harmer

David Leo Troost

~~Brian Townsend~~

Antonious Hendrikus Ruurda

Denise Lesley Ruurda

Linda Kay Andrews