

ORDER

COURT DETAILS

Court Supreme Court of New South Wales
Division Common Law
List General
Registry Sydney Registry
Case number 2011/187125

TITLE OF PROCEEDINGS

Plaintiff **EINPWY AMOM**

Defendant **STATE OF NEW SOUTH WALES**

TERMS OF ORDER MADE BY THE COURT

- 1 Order that paragraph 1 of the Third Further Amended Statement of Claim filed on 30 July 2014 be further amended by these handwritten amendments:
- a) delete the words "at the date of filing this third further amended statement of claim"; and
 - b) insert in lieu the words "prior to 20 May 2014".

Initial trial

- 2 Subject to further order, the following matters be determined at the initial trial of the proceeding:
- a) the plaintiff's individual claim;
 - b) the individual claim of Mr Keith Moffitt; and
 - c) common questions of law and fact as detailed in **Schedule A** to these orders.

Opt out

- 3 Pursuant to section 162(1) of the *Civil Procedure Act 2005* (NSW) (**CP Act**), 4.00 pm on 13 November 2014 (**Opt Out Date**) is fixed as the time and date before which a group member may opt out of this proceeding.
- 4 The form and content of the notice (**Notice to Group Members**) in **Schedule B** to these orders be approved for the purposes of section 176 of the CP Act as the notice that must be given to group members pursuant to section 175(1)(a) of the CP Act.
- 5 Pursuant to section 183 of the CP Act, the notice in **Schedule C** that is a modification of the Form 115 "**Opt Out Notice**" be approved for this proceeding for the purpose of rule 58.2(1) of the *Uniform Civil Procedure Rules 2005* (NSW) (**Rules**).

6 From no later than 4.00pm on 24 September 2014 until the Opt Out Date, Maurice Blackburn Pty Ltd (**Maurice Blackburn**) and the Public Interest Advocacy Centre Ltd (**PIAC**) are to display the Third Further Amended Statement of Claim and Defence on their websites.

7 Pursuant to sections 176 and 183 of the CP Act, the Notice to Group Members is to be given no later than 4.00pm on 24 September 2014 by Maurice Blackburn:

- (a) sending a copy of the Notice to Group Members and the Opt Out Notice by ordinary mail to each group member who is a client or of whom they are otherwise aware;
- (b) causing the Notice to Group Members to be published in one weekday edition of the following newspapers:
 - (i) *Daily Telegraph*]
 - (ii) *Illawarra Mercury*]
 - (iii) *Newcastle Herald*]
 - (iv) *Coffs Coast Advocate*;
 - (v) *Daily Liberal*]
 - (vi) *Daily Advertiser*,
 - (vii) *Border Mail*]
 - (viii) *Koori Mail*;
 - (ix) *National Indigenous Times*;
- (c) causing the Notice to Group Members and the Opt Out Notice to be displayed on the website of PIAC until the Opt Out Date;
- (d) causing the Notice to Group Members and the Opt Out Notice to be displayed on the website of Maurice Blackburn until the Opt Out Date; and
- (e) causing the Notice to Group Members and the Opt Out Notice to be accessible, until the Opt Out Date, via the "False imprisonment of young people class action" page that has been established by Maurice Blackburn and PIAC on the "Facebook" social media utility.

8 For the purpose of rule 58.2(1) of the Rules, a group member who wishes to opt out of the proceeding must do so by filing an Opt Out Notice in the Court by the Opt Out Date.

- 9 If an Opt Out Notice is received by either of Maurice Blackburn or PIAC, each must file any Opt Out Notice received with the Court on or before 17 November 2014.
- 10 Pursuant to rule 58.2(2) of the Rules, no later than 14 days after the Opt Out Date the plaintiff is to provide to the defendant a list of persons who have filed and served Opt Out Notices.
- 11 The defendant is to pay 50 per cent of the costs of publishing the Notice to Group Members as set out in order 7(b) above within 14 days of the plaintiff providing invoices with respect to those costs to the defendant.

Evidence and Hearing

- 12 Order pursuant to Rule 31.4 that the plaintiff serve on the defendant all written statements of the oral evidence which he intends to adduce in chief on all questions of fact to be decided at the hearing on or before 12 December 2014.
- 13 Order that the plaintiff serve on the defendant a list of all documents which he proposes to tender and rely upon on any question of fact at the hearing on or before 12 December 2014.
- 14 Order that the defendant serve on the plaintiff all written statements of the oral evidence which it intends to adduce in chief on all questions of fact to be decided at the hearing on or before 30 April 2015.
- 15 Order that the defendant serve on the plaintiff a list of all documents which it proposes to tender and rely upon on any question of fact to be decided at the hearing on or before 30 April 2015.
- 16 Fix the hearing commencing on 7 September 2015.
- 17 Liberty to apply on 24 hours notice.
- 18 Stand over for further directions at 9.30am on 18 December 2014.

SCHEDULE A

1. The proper construction of section 50 of the *Bail Act 1978* (NSW).
2. Whether or not, at all material times prior to 20 May 2014, senior members of the NSW Police Force were aware that information on COPS relating to bail conditions was sometimes inaccurate and, if so:
 - (a) which senior members of the NSW Police Force had that knowledge;
 - (b) when did they have that knowledge;
 - (c) what knowledge did the persons identified in 2(a) have as to the extent and cause of any such inaccuracy.
3. Whether, having regard to the answers to Question 2, any such knowledge held by the senior members of the NSW Police Force should be attributed to all members of the NSW Police Force.
4. Whether, having regard to the answers to Questions 2 and 3, a police officer could ever have reasonable grounds for believing that a person had breached their bail conditions without confirming the bail information from a source or sources other than COPS.
5. Whether the age of a person unlawfully arrested is necessarily, and without more, a circumstance of aggravation for the purpose of assessment of damages.