



Principal Registrar &
Chief Executive Officer



SIXTH CROSS-CLAIM CROSS-SUMMONS

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Commercial
Registry	Sydney
Case number	2018/00076580

TITLE OF PROCEEDINGS

First plaintiff	Giabal Pty Ltd (ACN 009 863 807)
Second plaintiff	Geoffry Underwood
Third defendant	Wayne Leonard Chapman
Number of defendants	11

TITLE OF THIS CROSS-CLAIM

First cross-claimant	Robin Gray
First cross-defendant	Wayne Leonard Chapman
Number of cross-defendants	6

FILING DETAILS

Filed for	Robin Gray, Eighth Defendant / First Cross-Claimant
Filed in relation to	Sixth Cross-Claim
Legal representative	Caroline Goulden, Arnold Bloch Leibler
Legal representative reference	
Contact name and telephone	Caroline Goulden (03 9229 9786)
Contact email	cgoulden@abl.com.au

HEARING DETAILS

This cross-summons is listed at	03Sep2021 09:45 AM
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RELIEF CLAIMED

- 1 Contribution from each of the Cross-Defendants pursuant to sections 3(1)(c) and 3(2) of the *Wrongs Act 1954* (Tas) or alternatively sections 5(1)(c) and 5(2) of the *Law Reform (Miscellaneous Provisions) Act 1946* (NSW), or alternatively any other similar or equivalent provision of any other applicable legislation.
- 2 Further or alternatively, contribution from each of the Cross-Defendants in equity.
- 3 Interest.
- 4 Costs.
- 5 Such further order as the Court considers appropriate.

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 this cross-summons has reasonable prospects of success.

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

Signature



Capacity

Solicitor

Date of signature

1 July 2021

NOTICE TO CROSS-DEFENDANT

If your solicitor, barrister or you do not attend the hearing, the court may give judgment or make orders against you. The court may also make orders for the payment of costs.

If you are a new party, or an existing party who has not already filed an originating process or appearance, before you can appear before the court you must file at the court an appearance in the approved form.

HOW TO RESPOND

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

You can get further information about what you need to do to respond to the cross-summons from:

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

Court forms are available on the UCPR website at www.ucprforms.nsw.gov.au or at any NSW court registry.

REGISTRY ADDRESS

Street address	184 Phillip Street, Sydney, NSW 2000
Postal address	Supreme Court of NSW, GPO Box 3, Sydney NSW 2001
Telephone	1300 679 272

[on separate page]

PARTY DETAILS

A list of parties must be filed and served with this cross-claim statement.

PARTIES TO THIS CROSS-CLAIM

Cross-Claimant

Robin Gray
First Cross-Claimant

Cross-Defendants

Wayne Leonard Chapman
First Cross-Defendant

Robert Watson and Erica Gay as the legal personal representatives for the estate of the late John Eugene Gay in place of Mr Gay

Second Cross-Defendant

Rodney John Loone
Third Cross-Defendant

Leslie Ralph Baker
Fourth Cross-Defendant

Robert Henry Graham
Fifth Cross-Defendant

Paul Desmond Teisseire
Sixth Cross-Defendant



Principal Registrar &
Chief Executive Officer



SIXTH CROSS-CLAIM COMMERCIAL LIST CROSS-CLAIM STATEMENT

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Commercial
Registry	Sydney
Case number	2018/00076580

TITLE OF PROCEEDINGS

First plaintiff	Giabal Pty Ltd (ACN 009 863 807)
Second plaintiff	Geoffry Underwood
Third defendant	Wayne Leonard Chapman
Number of defendants	11

TITLE OF THIS CROSS-CLAIM

First cross-claimant	Robin Gray
First cross-defendant	Wayne Leonard Chapman
Number of cross-defendants	6

FILING DETAILS

Filed for	Robin Gray, Eighth Defendant / First Cross-Claimant
Filed in relation to	Sixth Cross-Claim
Legal representative	Caroline Goulden, Arnold Bloch Leibler
Legal representative reference	
Contact name and telephone	Caroline Goulden (03 9229 9786)
Contact email	cgoulden@abl.com.au

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A. NATURE OF THE DISPUTE

- 1 The Cross-Claimant is the Eighth Defendant (**Eighth Defendant**) in the proceeding.
- 2 The proceeding is commenced as a representative proceeding under Part 10 of the *Civil Procedure Act 2005* (NSW) by the Plaintiffs on behalf of themselves and other persons (**Group Members**) against the Eighth Defendant, the Cross-Defendants and other defendants.
- 3 The Plaintiffs allege, amongst other things, that the Eighth Defendant, and the First, Third, Fourth, Fifth and Sixth Cross-Defendants, and Mr Eugene Gay, breached their duties as directors of Gunns Plantations Limited (ACN 091 232 209) (in Liquidation) (Receivers and Managers Appointed) (**GPL**) and thereby caused the Plaintiffs to suffer loss and damage. The Eighth Defendant denies that the Plaintiffs and Group Members are entitled to the relief claimed in the Plaintiffs' Second Further Amended Commercial List Statement (**Plaintiffs' Contentions**).
- 4 Solely for the purposes of this Cross-Claim, the Eighth Defendant says that if he is liable to the Plaintiffs as claimed in the Plaintiffs' Contentions (which is denied), then the Cross-Defendants are also liable to the Plaintiffs and he is entitled to contribution from the Cross-Defendants on the basis set out below.

B. ISSUES LIKELY TO ARISE

If the Eighth Defendant is liable to the Plaintiffs as claimed (which is denied), then the key issues that will likely arise between the Eighth Defendant and the Cross-Defendants are as follows:

- 1 Whether the Eighth Defendant is entitled to contribution from one or more of the Cross-Defendants pursuant to sections 3(1)(c) and 3(2) of the *Wrongs Act 1954* (Tas) or alternatively pursuant to sections 5(1)(c) and 5(2) of the *Law Reform (Miscellaneous Provisions) Act 1946* (NSW), or alternatively any other similar or equivalent provision of any other applicable legislation.
- 2 Whether the Eighth Defendant is entitled to contribution from one or more of the Cross-Defendants in equity.
- 3 The amount of contribution to which the Cross-Claimant is entitled.

C. CROSS-CLAIMANT'S CONTENTIONS

- 1 Solely for the purposes of this Cross-Claim, if the Eighth Defendant is found liable to the Plaintiffs on the basis claimed in the Plaintiffs' Contentions (which is denied), then:
 - a. as against Wayne Chapman (First Cross-Defendant) the Eighth Defendant repeats paragraphs 4, 14-52C, 55A-64, 69, 73-75, 82-84, 90B-94A and 102-104 of the Plaintiffs' Contentions.
 - b. as against Robert Watson and Erica Gay as the legal personal representatives of the estate of the late John Gay (the Second Cross-Defendant) the Eighth Defendant repeats paragraphs 5, 14-52C, 55A-64, 69, 73-75, 82-84, 90B-94A and 102-104 of the Plaintiffs' Contentions.
 - c. as against Rodney Loone (the Third Cross-Defendant) the Eighth Defendant repeats paragraphs 6, 14-52C, 55A-64, 69, 73-75, 82-84, 90B-94A and 102-104 of the Plaintiffs' Contentions.
 - d. as against Leslie Baker (the Fourth Cross-Defendant) the Eighth Defendant repeats paragraphs 7, 14-52C, 55A-64, 69, 73-75, 82-84, 90B-94A and 102-104 of the Plaintiffs' Contentions.
 - e. as against Robert Graham (the Fifth Cross-Defendant) the Eighth Defendant repeats paragraphs 8, 14-52C, 55A-64, 69, 73-75, 82-84, 90B-94A and 102-104 of the Plaintiffs' Contentions.
 - f. as against Paul Teisseire (the Sixth Cross-Defendant) the Eighth Defendant repeats paragraphs 10, 14-52C, 55A-64, 69, 73-75, 82-84, 90B-94A and 102-104 of the Plaintiffs' Contentions.

- 2 In the premises of the facts and matters repeated at paragraph 1 above, if the Eighth Defendant is found liable to the Plaintiffs and Group Members as alleged in the Plaintiffs' Contentions (which is denied):
 - a. each of the Cross-Defendants is liable in respect of the same damage as the Eighth Defendant within the meaning of section 3(1)(c) of the *Wrongs Act 1954* (Tas), or alternatively section 5(1)(c) of the *Law Reform (Miscellaneous Provisions) Act 1946* (NSW), or alternatively any other similar or equivalent provision of any other applicable legislation; and
 - b. to the extent that the Plaintiffs' and Group Members' claims are not apportionable as alleged by the Eighth Defendant in his Commercial List Response, the Eighth Defendant is entitled to contribution from the Cross-

Defendants in respect of that damage to the extent found by the Court to be just and equitable pursuant to sections 3(1)(c) and 3(2) of the *Wrongs Act 1954* (Tas), or alternatively sections 5(1)(c) and 5(2) of the *Law Reform (Miscellaneous Provisions) Act 1946* (NSW), or alternatively any other similar or equivalent provision of any other applicable legislation.

- 3 Further and in the alternative, based on the facts and matters repeated in paragraph 1 above, if the Eighth Defendant is found liable to the Plaintiffs and Group Members as alleged in the Plaintiffs' Contentions (which is denied), the Eighth Defendant is entitled to contribution in equity from the Cross-Defendants against the Plaintiffs' and Group Members' claims on the basis that the Cross-Defendants owe a co-ordinate liability to make good the Plaintiffs' and Group Members' loss.
- 4 In the circumstances set out in paragraphs 1 to 3 above, the Eighth Defendant claims against each Cross-Defendant for the relief set out in the Cross Summons dated 1 July 2021.

D. QUESTIONS APPROPRIATE FOR REFERRAL TO A REFEREE

None

E. QUESTIONS APPROPRIATE FOR REFERRAL TO A REFEREE

The Eighth Defendant participated in a mediation on 25 June 2019, which was unsuccessful. The Eighth Defendant is willing to attempt another mediation involving at an appropriate time.

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 this statement of cross-claim has reasonable prospects of success.

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

Signature



Capacity

Solicitor

Date of signature

1 July 2021

NOTICE TO CROSS-DEFENDANT

If you do not file a defence you will be bound by any judgment or order in the proceedings so far as it is relevant to this cross-claim.

HOW TO RESPOND

Please read this statement of cross-claim very carefully. If you have any trouble understanding it or require assistance on how to respond to the cross-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.
- The court registry for limited procedural information.

You can respond in one of the following ways:

- 1 If you intend to dispute the cross-claim or part of the cross-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 cross-claimant all of the money and interest claimed.
 - 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 cross-claimant 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 <http://www.ucprforms.nsw.gov.au/> or at any NSW court registry.

REGISTRY ADDRESS

Street address	184 Phillip Street, Sydney, NSW 2000
Postal address	Supreme Court of NSW, GPO Box 3, Sydney NSW 2001
Telephone	1300 679 272

AFFIDAVIT VERIFYING

Name Robin Gray
 Address 11 Beech Road, Norwood Tasmania 7250
 Occupation Director
 Date *1st July* 2021

I say on oath:

- 1 I am the cross-claimant in the Sixth Cross-claim.
- 2 I believe that the allegations of fact in the statement of cross-claim are true.

SWORN at *Launceston
in Tasmania*
 Signature of deponent

Robin Gray

Name of witness ROBERT JOHN HEGARTY
 Address of witness 9-13 GEORGE STREET
 LAUNCESTON TAS 7250
 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.
 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.
 I have confirmed the deponent's identity using the following identification document:

Driver Licence

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

Signature of witness

[Signature]

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.]

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Cross-Defendants**Wayne Leonard Chapman**

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Robert Watson and Erica Gay as the legal personal representatives for the estate of the late John Eugene Gay in place of Mr Gay

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