



Issued: 19 September 2014 5:03 PM

## JUDGMENT/ORDER

### COURT DETAILS

Court	Supreme Court of NSW
Division	Common Law
List	Common Law General
Registry	Supreme Court Sydney
Case number	2014/00148790

### TITLE OF PROCEEDINGS

First Plaintiff	Sean Johnston
First Defendant	Endeavour Energy (ABN 59 253 130 878)

### DATE OF JUDGMENT/ORDER

Date made or given	29 August 2014
Date entered	29 August 2014

### TERMS OF JUDGMENT/ORDER

GARLING J MAKES THE FOLLOWING ORDERS:

1. The "Notice of Commencement of Proceedings" ("Notice") set out in schedule A to the orders made on 1/8/14 be amended nunc pro tunc to the terms of the Notice set out in Schedule A to these orders. .
2. Paragraph 3 of the order made on 1/8/14 relating to the publication of the Notice be vacated.
3. No later than 3/9/14, the plaintiff is to cause advertisements in terms of the Notice to be published in one weekday edition of Daily Telegraph and two weekday editions of each of the Blue Mountains Gazette and Penrith Press.
4. The plaintiff is to provide to the defendant a draft of its proposed 2nd Amended Statement Claim together with as full particulars of the new allegations as is possible by 5/9/14.
5. The plaintiff is to notify the defendant of any additional categories of documents for discovery relating to the proposed amendments by 5/9/14.
6. Unless the defendant notifies the plaintiff of any objection to its proposed 2nd Amended Statement of Claim by 19/9/14, the plaintiff has leave to file and serve a 2nd amended statement claim in the form of the circulated draft by 26/9/14.
7. If such 2nd amended statement of claim is filed, the defendant has leave on or before 24/10/14, to file and serve an amended defence and cross claims, if any.
8. On or before 7/11/14, the plaintiff and defendant shall provide to each other with respect to any expert witness whom it is proposed to call:
  - (a) the name, professional address and area of expertise of the witness; and
  - (b) a copy of the curriculum vitae of the witness.
9. Order that pursuant to UCPR r 31.4, the plaintiff is to serve on the defendant all written statements of the oral evidence which he intends to adduce in chief on any and all questions of fact to be decided at the hearing on or before 14/11/14.
10. If the plaintiff proposes to rely upon any written statement of oral factual evidence which as been provided to the NSW Police, the NSW Rural Fire Service or the Office of the State Coroner, then copies of such statements are to be served on the defendant by 14/11/14.
11. If the plaintiff wishes to call any other witness and is unable to obtain a signed statement from that witness to comply with either of the two previous orders, then the plaintiff is to notify the defendant of the name of any such witness and provide an outline of the evidence it is anticipated

they will give to the defendant by 14/11/14.

12. Order that pursuant to UCPR r 31.4, the defendant is to serve on the plaintiff all written statements of the oral evidence which he intends to adduce in chief on any and all questions of fact to be decided at the hearing on or before 6/2/15.

13. If the defendant proposes to rely upon any written statement of oral factual evidence which has been provided to the NSW Police, the NSW Rural Fire Service or the Office of the State Coroner, then copies of such statements are to be served on the plaintiff by 6/2/15.

14. If the defendant wishes to call any other witness and is unable to obtain a signed statement from that witness to comply with either of the two previous orders, then the defendant is to notify the plaintiff of the name of any such witness and provide an outline of the evidence it is anticipated they will give to the defendant by 6/2/15.

15. Order that pursuant to UCPR r 31.4, the plaintiff is to serve on defendant all written statements oral evidence which it intends to adduce in reply on or before 27/2/15.

16. Order that pursuant to UCPR r 31.20, the plaintiff is to serve on the defendant all expert reports in chief from experts in fields of expertise for which leave has been granted by the Court, on or before 17/4/15.

17. Order that pursuant to UCPR r 31.20, the defendant is to serve on the plaintiff all expert reports to be relied upon in chief from experts in the fields of expertise for which leave has been granted by the Court on or before 1/7/15.

18. Order that pursuant to UCPR r 31.20, the plaintiff to serve on the def all expert reports from experts in the fields of expertise for which leave has been granted by the Court, which are in reply to the defendant's reports on or before 31/7/15.

19. Direct that all expert reports served in compliance with the three previous orders are to comply with UCPR r 31.27.

20. Direct that at the time of service of the reports in compliance with the Court's order, each party is to also serve the following documents:

(a) all letters providing instructions to each expert;

(b) a list of all documents provided to each expert for the purpose of preparing the report;

(c) list of all expert reports, whether in draft or final form provided to each expert for the purpose of preparing the report.

21. Fix the proceedings for hearing to commence on 15/2/16.

22. Extend the time for the defendant to provide discovery to the plaintiff to 10/10/14.

23. Fix the next directions hearing for 9.30am on 31/10/14 before Garling J.

24. Liberty to apply on 24 hours' notice.

## SEAL AND SIGNATURE



Signature

Linda Murphy

Capacity

Principal Registrar

Date

19 September 2014

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document has taken to have been signed if the person's name is printed where his or her signature would otherwise appear.