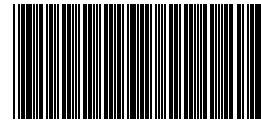




Filed: 18 April 2023 6:44 PM



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Form 10
UCPR 9.1

FIRST CROSS-CLAIM CROSS-SUMMONS

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Commercial
Registry	Supreme Court Sydney
Case number	2022/00184814

TITLE OF PROCEEDINGS

First Plaintiff	Keiran Liprini
First Defendant	Thirdi William Street Pty Ltd ACN 619508824
Second Defendant	H & M CONSTRUCTIONS (NSW) NO. 2 PTY LTD
Number of defendants	5

TITLE OF THIS CROSS-CLAIM

First Cross-claimant	Thirdi William Street Pty Ltd ACN 619508824
First Cross-defendant	H & M CONSTRUCTIONS (NSW) NO. 2 PTY LTD ACN 615763258
Second Cross-defendant	HAMILTON & MARINO BUILDERS HOLDINGS (VIC) PTY LTD

FILING DETAILS

Filed for	Thirdi William Street Pty Ltd, Cross Claimant 1
Filed in relation to	Plaintiff's claim
Legal representative	SHANE GEOFFREY WILLIAMSON
Legal representative reference	
Telephone	0404 045 605

HEARING DETAILS

A Notice of Listing will be attached and served with this cross-summons.

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Cross Summons (e-Services), along with any other documents listed below, were filed by the Court.

Cross-summons (UCPR 10) (230418 Cross-Summons and List Cross-Claim Statement SIGNED.pdf)

Form 1 - Service and Execution of Process Act 1992 (Cth) (230418 Notice under Service and Execution of Process Act 1992.pdf)

[attach.]

Form 10 (version 6)
UCPR 9.1

FIRST CROSS-CLAIM CROSS-SUMMONS

COURT DETAILS

Court Supreme Court of New South Wales
Division Equity
List Technology and Construction
Registry Sydney
Case number 2022/00184814

TITLE OF PROCEEDINGS

Plaintiff **KEIRAN LIPRINI**
Defendant **THIRDI WILLIAM STREET PTY LTD
(ACN: 619 508 824)**

TITLE OF THIS CROSS-CLAIM

Cross-claimant **THIRDI WILLIAM STREET PTY LTD
(ACN: 619 508 824)**
First Cross-defendant **H & M CONSTRUCTIONS (NSW) NO. 2 PTY LTD
(ACN: 615 763 258)**
Second Cross-defendant **HAMILTON & MARINO BUILDERS HOLDINGS (VIC)
PTY LTD
(ACN: 623 284 444)**

FILING DETAILS

Filed for **THIRDI WILLIAM STREET PTY LTD, Defendant and
Cross-Claimant**
Filed in relation to Plaintiff's claim
Legal representative Shane Williamson, Williamson Lawyers Pty Ltd
Contact name and telephone Shane Williamson, 0404 045 605
Contact email shane@williamsonlawyers.com.au

HEARING DETAILS

This cross-summons is listed at 9:15 AM on 2 June 2023.

RELIEF CLAIMED

Claim against the First Cross-Defendant

- 1 Damages from the first cross-defendant in the amount, if any, to which the cross claimant may be found liable to the plaintiffs in the proceedings, and/or any amount the cross claimant suffers and any losses, damages, cost or expense arising from these proceedings (including legal costs and associated expenses).
- 2 A declaration that the first cross-defendant is liable to indemnify the cross-claimant to the extent to which the cross-claimant is found liable to the plaintiffs or suffers any losses, damages, cost or expense arising from these proceedings (including legal costs on an indemnity basis and associated expenses).
- 3 Interest in accordance with section 100 of the Civil Procedure Act 2005 (NSW).
- 4 Costs.
- 5 Interest on costs.
- 6 Such further or other orders the Court sees fit.

Claim against the Second Cross-Defendant

- 7 A declaration that the second cross-defendant is liable to indemnify the cross claimant under the deed of guarantee and indemnity dated 20 February 2020 to the extent to which the cross claimant is found liable to the plaintiffs or suffers any losses, damages, cost or expense arising from these proceedings (including legal and associated expenses).
- 8 Interest in accordance with section 100 of the Civil Procedure Act 2005 (NSW).
- 9 Costs.
- 10 Interest on costs.
- 11 Such further or other orders the Court sees fit.

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[s] that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.

Signature



Capacity

Solicitor on record

Date of signature

18 April 2023

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

Law Courts Building
184 Phillip Street
Sydney NSW 2000

Postal address

Supreme Court of New South Wales
GPO Box 3
Sydney NSW 2001

Telephone

1300 679 272

PARTY DETAILS**PARTIES TO THIS CROSS-CLAIM****Cross-claimant**

Thirdi William Street Pty Ltd
 ACN: 619 508 824
 First Cross-Claimant

Cross-defendants

H&M Constructions (NSW) No 2 Pty Ltd
 ACN: 615 763 258
 First Cross-Defendant

Hamilton & Marino Builders Holdings (Vic)
 Pty Ltd
 ACN: 623 284 444
 Second Cross-Defendant

DETAILS ABOUT CROSS-DEFENDANT THAT ARE NEW PARTIES**Second Cross-Defendant**

Name	Hamilton & Marino Builders Holdings (Vic) Pty Ltd
Address	C/- HLB Mann Judd (Vic) Pty Ltd Level 9, 550 Bourke Street Melbourne, Victoria 3000

**TECHNOLOGY AND CONSTRUCTION LIST
CROSS CLAIM STATEMENT**

COURT DETAILS

Court Supreme Court of New South Wales
Division Equity
List Technology and Construction
Registry Sydney
Case number 2022/00184814

TITLE OF PROCEEDINGS

Plaintiff **KEIRAN LIPRINI**

Defendant **THIRDI WILLIAM STREET PTY LTD
(ACN: 619 508 824)**

TITLE OF THIS CROSS-CLAIM

Cross-claimant **THIRDI WILLIAM STREET PTY LTD
(ACN: 619 508 824)**

First Cross-defendant **H & M CONSTRUCTIONS (NSW) NO. 2 PTY LTD
(ACN: 615 763 258)**

Second Cross-defendant **HAMILTON & MARINO BUILDERS HOLDINGS (VIC)
PTY LTD
(ACN: 623 284 444)**

FILING DETAILS

Filed for **THIRDI WILLIAM STREET PTY LTD, Defendant and
Cross-Claimant**

Filed in relation to Plaintiff's claim

Legal representative Shane Williamson, Williamson Lawyers Pty Ltd

Contact name and telephone Shane Williamson, 0404 045 605

Contact email shane@williamsonlawyers.com.au

A. NATURE OF DISPUTE

- 1 The plaintiff brings the proceedings on her own behalf and as a representative proceeding pursuant to Part 10 of the Civil Procedure Act 2005 claiming loss and damage as a result of defects in the construction of 37 terrace units and basement located at 31 – 41 William Street, Alexandria in New South Wales.
- 2 The cross-claimant contracted with first cross-defendant for the design and construction of the terrace units and basement.

3 The cross-claimant claims the first cross-defendant is responsible for any defects in
the 37 terrace units and basement and any loss and damage suffered by the
plaintiff.

4 The cross-claimant claims pursuant to the contract, the first cross-defendant is
responsible to indemnify the cross-claimant from any expense, loss, damage or
claim arising from or in connection any defects in the terrace units and basement.

5 Pursuant to a deed of guarantee and indemnity dated 20 February 2020, the
second cross-defendant agreed to indemnify the cross-claimant in relation to
defects in the construction of the 37 terrace units and basement and the loss and
damage suffered by the cross-claimant arising from defects.

6 The cross-claimant claims the second cross-defendant is responsible to indemnify
the cross-claimant for any defects in the terrace units and basement and any loss
and damage suffered by the plaintiff.

B. ISSUES LIKELY TO ARISE

1 Whether the first defendant is liable to the plaintiff as a developer.

2 Whether there are defects.

3 Whether the alleged defects are common questions of fact.

4 The scope of work reasonable and necessary to rectify any defects.

5 The interpretation of the contract between the cross-claimant and first cross-
defendant.

6 The interpretation of the deed of guarantee and indemnity dated 20 February 2020.

7 Quantum.

C. PLAINTIFF'S CONTENTIONS

Claim against the First Cross-Defendant

1 For the purposes of this cross-claim only, the cross-claimant says that to the extent
that the plaintiffs are found to have suffered loss and damage by reason of any of
the matters alleged at paragraphs 64(a) and 64(c) of the plaintiffs' contentions, the
cross-claimant says that the loss and damage was caused by a corresponding
breach of the obligations of the first cross-defendant identified at paragraphs 12,
13, 14, 15, 16, 17, 18, 19, 21, 23, 24, 25, 26, 27, 36, 37, 38 and 44 of the plaintiffs'
contentions.

- 2 Pursuant to the same contract as that referred to by the plaintiff in paragraph 11 of the plaintiffs' contentions, and referred to as the 'Construction Contract', the cross-claimant says the first cross-defendant is liable to indemnify the cross-claimant from any expense, loss, damage or claim (including legal costs on an indemnity basis) for breaches of the Statutory Warranties (as defined in the plaintiff's contentions).

Particulars

Clause 57.4.

- 3 The cross-claimant seeks:
- a. Damages in the amount, if any, to which the cross-claimant may be found liable to the plaintiffs in the proceedings.
 - b. A declaration that the first cross-defendant is liable to indemnify the cross claimant.
 - c. Interest in accordance with section 100 of the Civil Procedure Act 2005 (NSW).
 - d. Costs.
 - e. Interest on costs.
 - f. Such further or other orders the Court sees fit.

Claim against the Second Cross-Defendant

- 4 The cross-claimant refers to and repeats its cross claim against the first cross-defendant.
- 5 By deed of guarantee and indemnity dated 20 February 2020 the second cross-defendant agreed to:
- a. Guarantee the due and proper performance the first cross-defendant's obligations under the contract between the cross-claimant and the first-cross defendant which is the same contract as that referred to by the plaintiff in paragraph 11 of the plaintiffs' contentions and referred to as the 'Construction Contract'.
 - b. Indemnify the cross-claimant against all claims, losses, damages, costs and expenses that it might suffer or incur arising out of or in connection with (directly or indirectly) the construction contract or any breach of non-observance of it.
- 6 The cross-claimant says that to the extent to which it is found liable under these proceedings to the plaintiffs or suffers any losses, damages, cost or expense

arising from these proceedings (including legal and associated expenses) it is entitled to an indemnity in a corresponding amount under the deed of guarantee and indemnify from the second cross-defendant.

7 The cross-claimant seeks:

- a. A declaration that the second cross-defendant is liable to indemnify the cross-claimant under the deed of guarantee and indemnity dated 20 February 2020 to the extent to which the cross-claimant is found liable to the plaintiffs or suffers any losses, damages, cost or expense arising from these proceedings (including legal and associated expenses).
- b. Damages in the amount, if any, to which the cross-claimant may be found liable to the plaintiffs in the proceedings.
- c. Interest in accordance with section 100 of the Civil Procedure Act 2005 (NSW).
- d. Costs.
- e. Interest on costs.
- f. Such further or other orders the Court sees fit.

D. QUESTIONS APPROPRIATE FOR REFERRAL TO A REFEREE

1 All questions are appropriate for referral to a referee.

E. MEDIATION

1 The parties have not attempted information.

2 The Plaintiff is willing to proceed to mediation at an appropriate time.

SIGNATURE

Signature of legal representative



Capacity

Solicitor

Date of signature

18 April 2023

Notice when serving initiating process in civil proceedings

Service and Execution of Process Act 1992

Notice to Second Cross-defendant

Please read this notice and the attached document very carefully

If you have any trouble understanding them you should get legal advice as soon as possible

Attached to this notice is a First Cross-Claim Cross-Summons and Cross Claim Statement (“the attached process”) issued out of the Supreme Court of New South Wales.

Service of the attached process outside New South Wales is authorised by the *Service and Execution of Process Act 1992*.

Your rights

If a court of a State or Territory other than New South Wales is the appropriate court to determine the claim against you set out in the attached process, you may be able to apply to the Supreme Court in New South Wales to have the proceeding transferred to another Supreme Court or a federal court.

If you think the proceeding should be stayed or transferred you should get legal advice as soon as possible.

Contesting this claim

If you want to contest this claim, you must take any action set out in the attached process as being necessary to contest the claim.

If you want to contest this claim, you must also file an appearance^s in the Supreme Court of New South Wales. You have only 28 days after receiving the attached process to do so.

The appearance must contain your address.