

Form 5A

Rule 5.02(1)

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION

S CI 2013 3630

BETWEEN

MCDONALD'S AUSTRALIA LIMITED (ACN 008 496 928)

Plaintiff

and

JANINE WATSON AND ORS (according to the Schedule attached)

Defendants

WRIT

Date of document: 16 July 2013
Filed on behalf of: The plaintiff
Prepared by:
Norton Rose Fulbright Australia
RACV Tower, 485 Bourke Street
MELBOURNE, VIC 3000

Solicitor's Code: 370
DX: 445
Tel: (03) 8686 6000
Fax: (03) 8686 6505
Ref: 2773256

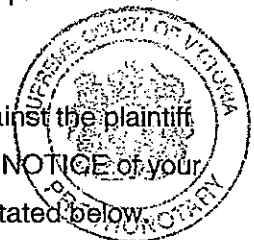
Attention: AM:CLS:2773256

Email: abigail.mcgregor@nortonrosefulbright.com

TO THE DEFENDANTS

TAKE NOTICE that this proceeding has been brought against you by the plaintiff for the claim set out in this writ.

IF YOU INTEND TO DEFEND the proceeding, or if you have a claim against the plaintiff which you wish to have taken into account at the trial, YOU MUST GIVE NOTICE of your intention by filing an appearance within the proper time for appearance stated below.



YOU OR YOUR SOLICITOR may file the appearance. An appearance is filed by –

- (a) filing a "Notice of Appearance" in the Prothonotary's office, Level 2, 436 Lonsdale Street, Melbourne, or, where the writ has been filed in the office of a Deputy Prothonotary, in the office of that Deputy Prothonotary; and
- (b) on the day you file the Notice, serving a copy, sealed by the Court, at the plaintiff's address for service, which is set out at the end of this writ.

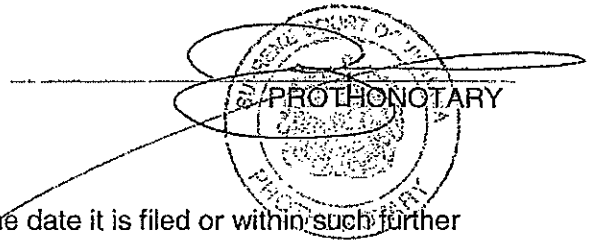
IF YOU FAIL to file an appearance within the proper time, the plaintiff may OBTAIN JUDGMENT AGAINST YOU on the claim without further notice.

THE PROPER TIME TO FILE AN APPEARANCE is as follows –

- (a) where you are served with the writ in Victoria, within 10 days after service;
- (b) where you are served with the writ out of Victoria and in another part of Australia, within 21 days after service;
- (c) where you are served with the writ in New Zealand or in Papua New Guinea, within 28 days after service;
- (d) where you are served with the writ in any other place, within 42 days after service.

FILED

16/7/2013



THIS WRIT is to be served within one year from the date it is filed or within such further period as the Court orders.

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION

S CI 2013

BETWEEN

MCDONALD'S AUSTRALIA LIMITED (ACN 008 496 928)

Plaintiff

and

JANINE WATSON AND ORS (according to the Schedule attached)

Defendants

INDORSEMENT OF CLAIM

Date: 16 July 2013

Filed on behalf of: The Plaintiff

Prepared by:

Norton Rose Fulbright Australia

RACV Tower, 485 Bourke Street

MELBOURNE VIC, 3000

Solicitor's Code: 370

DX: 445

Tel: (03) 8686 6000

Fax: (03) 8686 6505

Ref: 2773256

Attention: AM:CLS:2773256

Email: abigail.mcgregor@nortonrosefulbright.com

1. The plaintiff ("McDonald's") is and was at all times material:

- (a) a company incorporated pursuant to the *Corporations Act 2001* (Cth);
- (b) operating a chain of restaurants throughout Australia either directly or as franchisor;
- (c) the registered proprietor of the land located at 1529, 1529A and 1531 Burwood Highway, Tecoma, being the land more particularly described in Certificate of Title Volume 11412 Folio 179 (the "McDonald's Land") and therefore had and has an immediate right to possession of the McDonald's Land.

2. McDonald's has obtained the permission of the owner of land located at 1533 Burwood Highway, Tecoma more particularly described in Certificate of Title Volume 05466 Folio 146 being Lot 1 on Title Plan 753031A (the "Next Door Land"), Freeman Tecoma Pty Ltd (ACN 132 569 192) to use the Next Door Land to place its site sheds during the construction of the restaurant on the McDonald's Land.

1 Place of trial – Melbourne

2 Mode of trial – Judge alone

3 This writ was filed for the plaintiff by Norton Rose Fulbright Australia, solicitors, of RACV Tower, 485 Bourke Street, Melbourne, Victoria.

4 The address of the plaintiff is 21 Central Avenue, Thornleigh, New South Wales, 2120.

5 The address for service of the plaintiff is c/-
Norton Rose Fulbright Australia
RACV Tower
485 Bourke Street
MELBOURNE VIC 3000

6 The address of the first defendant is [REDACTED]

7 The address of the second defendant is [REDACTED]
3160.

8 The address of the third defendant is [REDACTED]
[REDACTED]

9 The address of the fourth defendant is unknown.

10 The address of the fifth defendant is unknown.

11 The address of the sixth defendant is unknown.

12 The address of the seventh defendant is [REDACTED]

13 The address of the eighth defendant is unknown.



Particulars

The permission is in writing and is contained in an email from Joel Freeman of Freeman Tecoma Pty Ltd to Paul Vallay of McDonald's dated 3 April 2013.

3. The first defendant is sued as representative of all persons who have, since about 1 July 2013, without the consent of McDonald's, entered into the McDonald's Land, ascended the roof of the existing construction on the McDonald's Land and have remained there from time to time since that time (the "**Group A Representees**").
4. The seventh defendant is sued as representative of all persons who have, since about 1 July 2013 wrongfully interfered with McDonald's use and enjoyment of the McDonald's Land and the Next Door Land (together the "**Land**") by impeding access to the Land to workers engaged to undertake the demolition of the existing construction on the McDonald's Land or tasks associated with that demolition and to build the convenience restaurant or undertake tasks associated with that building (the "**Group B Representees**").
5. McDonald's proposes to demolish the existing constructions on the McDonald's Land and construct a convenience restaurant on the McDonald's Land.
6. A protest group called "No McDonalds in the Dandenong Ranges" has formed to oppose the construction by McDonald's of a convenience restaurant on the McDonald's Land.
7. A Twitter account has been operated which opposes the construction of a convenience restaurant by McDonald's on the McDonald's Land called "No McDonalds Tecoma".
8. A website has been constructed to oppose the construction by McDonald's of a convenience restaurant on the McDonald's Land which is to be found at www.burgeroff.com.
9. Since about 1 July 2013, McDonald's has sought, through its agent, Lanskey Constructions Pty Ltd, to commence demolition of the existing buildings on the McDonald's Land and the construction of the convenience restaurant.
10. Since about 1 July 2013, the first to sixth defendants (the "**Group A Defendants**") without the consent of McDonald's have entered into the McDonald's Land, ascended the roof of the existing construction on the McDonald's Land and have remained there from time to time since that time.

11. In the premises McDonald's has suffered loss and damage.

Particulars

As a result of the conduct of the Group A Defendants, demolition of the existing construction on the McDonald's Land and has been unable to proceed.

12. Since about 1 July 2013, the seventh and eighth defendants (the "**Group B Defendants**") have wrongfully interfered with McDonald's use and enjoyment of the Land by impeding access to the Land to workers engaged to undertake the demolition of the existing construction on the McDonald's Land or tasks associated with that demolition and to build the convenience restaurant or undertake tasks associated with that building.

Particulars

The Group B Defendants have congregated outside the entrance to the Land and have impeded the passage to and from the Land of workers and others in order to perform works on the Land, including obstructing a truck carrying portaloos onto the Land.

13. In the premises McDonald's has suffered loss and damage.

Particulars

As a result of the conduct of the Group B Defendants, demolition of the existing construction on the McDonald's Land and has been unable to proceed.

AND THE PLAINTIFF CLAIMS:

- A. An order that the first defendant is appointed pursuant to Rule 18.03(1) as representing the Group A Representees.
- B. An order that the seventh defendant is appointed pursuant to Rule 18.03(1) as representing the Group B Representees.
- C. An injunction restraining the defendants, the Group A Representees and the Group B Representees and each of them, whether by themselves, their servants or agents or howsoever from: