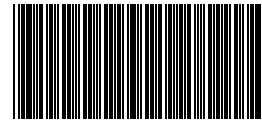




Filed: 6 August 2018 2:57 PM



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### Amended Summons

#### COURT DETAILS

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

#### TITLE OF PROCEEDINGS

First Plaintiff	Giabal Pty Ltd
Second Plaintiff	Geoffry Underwood
First Defendant	Gunns Plantations Limited (in Liquidation)
Second Defendant	Gunns Limited (in Liquidation)(Receivers & managers Appointed)
Number of Defendants	11

#### FILING DETAILS

Filed for	Giabal Pty Ltd, Plaintiff 1 Geoffry Underwood, Plaintiff 2
Legal representative	Gordon Grieve
Legal representative reference	
Telephone	02 9253 9999
Your reference	GTG:MDM:402437

#### ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Amended Summons (Gunns - Further Amended Summons.pdf)

[attach.]

Form 4A (version 4)  
UCPR 6.2

## **FURTHER AMENDED SUMMONS**

(Filed pursuant to the orders of Justice Hammerschlag dated ~~13 March 2018~~ 3 August 2018)

### **COURT DETAILS**

Court	Supreme Court of New South Wales
Division	Equity
List	Commercial List
Registry	Sydney
Case number	2018/76580

### **TITLE OF PROCEEDINGS**

First Plaintiff	<b>Giabal Pty Ltd</b> ACN 009 863 807
Second Plaintiff	<b>Geoffry Edward Underwood</b>
First Defendant	<b>Gunns Plantations Ltd (in Liquidation)</b> ACN 091 232 209
Second Defendant	<b>Gunns Ltd (in Liquidation) (Receivers and Managers Appointed)</b> ACN 009 478 148
Number of Defendants	11 Refer to Party Details at rear for full list of parties

### **FILING DETAILS**

Filed for	<b>Giabal Pty Ltd</b> , ACN 009 863 807 First Plaintiff <b>Geoffry Edward Underwood</b> , Second Plaintiff
Legal representative	Gordon Grieve Piper Alderman
Legal representative reference	GTG.MDM.402437
Contact name and telephone	Gordon Grieve Tel: +61 2 9253 9999
Contact email	ggrieve@piperalderman.com.au

### **HEARING DETAILS**

This summons is listed at 9:45am on 23 March 2018.

### **TYPE OF CLAIM**

Other (Commercial List) – Representative proceeding under Part 10 *Civil Procedure Act 2005*

## RELIEF CLAIMED

### Interlocutory Orders:

- 1A. Leave be granted pursuant to section 500(2) of the *Corporations Act 2001* (Cth) (**Act**), *nunc pro tunc*, for the Plaintiffs to commence and maintain these proceedings against the First and Second Defendants (**GPL** and **Gunns Ltd**).

### Declarations that:

1. GPL and Gunns Ltd each acted in breach of trust in respect of the Grower's Trust Funds as defined in the Amended Commercial List Statement.
2. GPL contravened ss.601FC(1)(b), 601FC(1)(c), 601FC(1)(h), 601FC(1)(i), 601FC(1)(k) 601FC(1)(l) and 601LC of the Act.
3. The Third to Ninth Defendants (**GPL Directors**) contravened ss.601FD(1)(b), 601FD(1)(c), 601FD(1)(e) and 601FD(1)(f) of the Act.
4. The Tenth and Eleventh Defendants (**KPMG**) breached ss.601HG(3) and 601HG(4A) of the Act.
5. Pursuant to s.197 of the Act, the GPL Directors are liable for liabilities incurred by GPL as a trustee.
6. Pursuant to s.197 of the Act, the Fourth Defendant is liable for liabilities incurred by Gunns Ltd as custodian.

### Orders that:

7. GPL, the GPL Directors, the Fourth Defendant, ~~KPMG~~ and Gunns Ltd pay equitable compensation to the Plaintiffs and the Group Members in respect of the breaches of trust for the loss of the Plaintiffs' and each of the Group Members' portion of the Growers' Trust Funds;
8. Pursuant to s.601MA of the Act, GPL pay to the Plaintiffs and the Group Members the amount of the loss of their respective Proportional Interest in the Wood Proceeds Portion and the Carbon Rights Portion for each of the Gunns Woodlot Schemes, less any liquidation distributions received.
9. Pursuant to s.1325(5)(e) of the Act, GPL, Gunns Ltd, the GPL Directors, the Fourth Defendant, and KPMG pay to the Plaintiffs and the Group Members the amount of the

loss of their respective Proportional Interests in the Wood Proceeds Portion and the Carbon Rights Portion for each of the Gunns Woodlot Schemes, less any liquidation distributions received.

10. Alternatively, pursuant to s.1325(5)(d) of the Act, GPL, Gunns Ltd, the GPL Directors, the Fourth Defendant, and KPMG pay to the Plaintiffs and Group Members the amount of the loss of their respective investments in the Gunns Woodlot Schemes by way of refund of the Plaintiffs' and the Group Members initial investment in the Gunns Woodlot Schemes.
11. Pursuant to s.100 of the *Civil Procedure Act 2005* (NSW), GPL, Gunns Ltd, the GPL Directors, the Fourth Defendant, and KPMG pay to the Plaintiffs and Group Members interest on any amount ordered to be paid by them respectively pursuant to paragraphs 7 to 10 above.
12. Interest.
13. Costs.
14. Such further or other order as the Court thinks 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 these proceedings has reasonable prospects of success.

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

Signature

Capacity

Date of signature



Solicitor on record for the Plaintiffs

~~19 March 2018~~ 6 August 2018

#### **NOTICE TO DEFENDANT**

If your solicitor, barrister or you do not attend the hearing, the court may give judgment or make orders against you in your absence. The judgment may be for the relief claimed in the summons and for the plaintiff's costs of bringing these proceedings.

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 summons very carefully. If you have any trouble understanding it or require assistance on how to respond to the 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 summons from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au).
- The court registry for limited procedural information.

Court forms are available on the UCPR website at [www.ucprforms.justice.nsw.gov.au](http://www.ucprforms.justice.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, Australia
Telephone	1300 679 272

**PARTY DETAILS****Plaintiffs****Giabal Pty Ltd**

First Plaintiff

**Geoffry Edward Underwood**

Second Plaintiff

**Defendants****Gunns Plantations Ltd (in Liquidation)**

First Defendant

**Gunns Ltd (in Liquidation) (Receivers and Managers Appointed)**

Second Defendant

**Wayne Leonard Chapman**

Third Defendant

**John Eugene Gay**

Fourth Defendant

**Rodney John Loone**

Fifth Defendant

**Leslie Ralph Baker**

Sixth Defendant

**Robert Henry Graham**

Seventh Defendant

**Robin Gray**

Eighth Defendant

**Paul Desmond Teisseire**

Ninth Defendant

**Andrew Gray (KPMG Partner)**

Tenth Defendant

**Mathew Gary Wallace**

Eleventh Defendant

**FURTHER DETAILS ABOUT PLAINTIFFS****First Plaintiff**

Name	Giabal Pty Ltd
Address	C/- Sands & Associates 156 Hume Street TOOWOOMBA QLD 4350

**Second Plaintiff**

Name Geoffrey Edward Underwood  
 Address Sixth Floor Wentworth Chambers  
 180 Phillip Street  
 SYDNEY NSW 2000

**Legal representative for plaintiffs**

Name Gordon Grieve  
 Practising certificate number 30216  
 Firm Piper Alderman  
 Contact solicitor McKenzie Moore  
 Address Level 23  
 Governor Macquarie Tower  
 1 Farrer Place  
 Sydney NSW 2000  
 DX address DX 10216 Sydney Stock Exchange  
 Telephone +61 2 9253 9999  
 Fax +61 2 9253 9900  
 Email [ggrieve@piperalderman.com.au](mailto:ggrieve@piperalderman.com.au)

**DETAILS ABOUT DEFENDANTS****First Defendant**

Name Gunns Plantations Limited (in Liquidation)  
 Address C/- PPB Advisory  
 Level 21 181 William Street  
 MELBOURNE VIC 3000

**Second Defendant**

Name Gunns Limited (in Liquidation) (Receivers and Managers  
 Appointed)  
 Address C/- PPB Advisory  
 Level 21 181 William Street  
 MELBOURNE VIC 3000

**Third Defendant**

Name Wayne Leonard Chapman  
 Address 

**Fourth Defendant**

Name John Eugene Gay  
 Address 

**Fifth Defendant**

Name Rodney John Loone

Address



**Sixth Defendant**

Name Leslie Ralph Baker

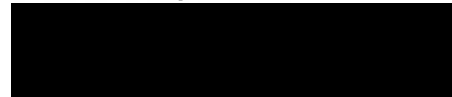
Address



**Seventh Defendant**

Name Robert Henry Graham

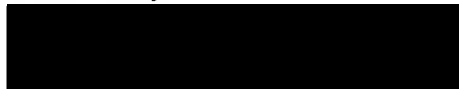
Address



**Eighth Defendant**

Name Robin Gray

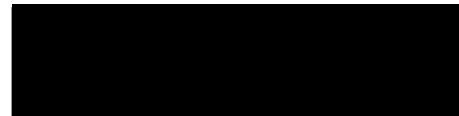
Address



**Ninth Defendant**

Name Paul Desmond Teisseire

Address



**Tenth Defendant**

Name Andrew Gray

Address



**Eleventh Defendant**

Name Mathew Gary Wallace

Address

