

DEFENCE OF THE FOURTH DEFENDANT

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
List	Common Law General
Registry	Sydney
Case number	2021/358501

TITLE OF PROCEEDINGS

Plaintiff	Jason Peter Hegemann
First defendant	Joseph Tannous
Number of defendants	4

FILING DETAILS

Filed for	Kwik Flo Pty Ltd, Fourth Defendant
Filed in relation to	Plaintiff's Statement of Claim
Legal representative	George Hadchiti Paramonte Legal
Legal representative reference	GH:212626
Contact name and telephone	George Hadchiti 02 9635 7388
Contact email	ghadchiti@paramontelegal.com.au

HEARING DETAILS

If the proceedings do not already have a listing date, they are to be listed at

PLEADING AND PARTICULARS

1. In answer to paragraph 1 of the Statement of Claim, The Fourth Defendant:
 - (a) Admits that on 4 December 2019 a fire started at 1620 Upper Turon Road, Palmers Oaky NSW;
 - (b) Does not know and does not admit that the size of the area burned by the fire.
2. The Fourth Defendant does not admit paragraph 2 of the Statement of Claim.
3. The Fourth Defendant does not admit paragraph 3 of the Statement of Claim and says the plaintiff has refused to identify any other persons on who's behalf he is bringing these proceedings.
4. The Fourth Defendant denies paragraph 4 of the Statement of Claim.

5. The Fourth Defendant does not admit paragraph 5 of the Statement of Claim.
6. The Fourth Defendant admits paragraph 6 of the Statement of Claim.
7. The Fourth Defendant admits paragraph 7(a) of the Statement of Claim and denies paragraph 7(b) of the Statement of Claim.
8. The Fourth Defendant admits paragraph 8 of the Statement of Claim.
9. In answer to paragraph 9 of the Statement of Claim, the Fourth Defendant:
 - (a) admits paragraph 9(a);
 - (b) admits paragraph 9(b); and
 - (c) does not admit paragraph 9(c).
10. In answer to paragraph 10, the Fourth Defendant admits that Jamie Edwards was undertaking fencing works as a contractor of Kwik Flo and otherwise denies the balance of paragraph 10.
11. The Fourth Defendant does not admit paragraph 11 of the Statement of Claim.
12. In answer to paragraph 12, the Fourth Defendant:
 - (a) Admits that the Owners they were the owners and occupiers of the Property;
 - (b) Does not admit the balance of the paragraph.
13. In answer to paragraph 13 of the Statement of Claim, the Fourth Defendant:
 - (a) Does not admit that the Owners had the right to the exclusion of other private persons, to control and direct their contractors (including Edwards) in the carrying out of the Works; and
 - (b) Denies the balance of paragraph 13.
14. In answer to paragraph 14 of the Statement of Claim, the Fourth Defendant:
 - (a) Does not admit that the Owners knew or ought to have known that welding causes the discharge of sparks which have the potential to ignite a fire if they contact combustible material, including dry grass; and

- (b) Otherwise denies the balance of paragraph 14.
- 15. The Fourth Defendant denies paragraph 15 of the Statement of Claim.
- 16. The Fourth Defendant denies paragraph 16 of the Statement of Claim.
- 17. The Fourth Defendant denies paragraph 17 of the Statement of Claim.
- 18. The Fourth Defendant denies paragraph 18 of the Statement of Claim.
- 19. The Fourth Defendant denies paragraph 19 of the Statement of Claim.
- 20. The Fourth Defendant denies paragraph 20 of the Statement of Claim.
- 21. The Fourth Defendant denies paragraph 21 of the Statement of Claim.
- 22. The Fourth Defendant does not know and cannot admit paragraph 22 of the Statement of Claim.
- 23. The Fourth Defendant denies paragraph 23 of the Statement of Claim.
- 24. The Fourth Defendant denies paragraph 24 of the Statement of Claim.
- 25. The Fourth Defendant denies paragraph 25 of the Statement of Claim.
- 26. The Fourth Defendant denies paragraph 26 of the Statement of Claim.
- 27. The Fourth Defendant denies paragraph 27 of the Statement of Claim.
- 28. The Fourth Defendant denies paragraph 28 of the Statement of Claim.
- 29. The Fourth Defendant denies paragraph 29 of the Statement of Claim.
- 30. The Fourth Defendant denies paragraph 30 of the Statement of Claim.
- 31. The Fourth Defendants denies paragraph 31 of the Statement of Claim.
- 32. The Fourth Defendant agrees with the proposed questions of law and fact as pleaded at paragraph 32 of the Statement of Claim.

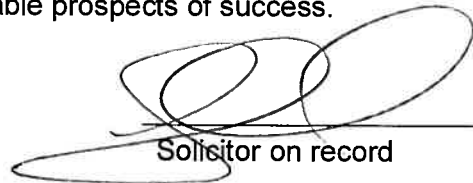
SIGNATURE OF LEGAL REPRESENTATIVE

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 defence to the claim for damages in these proceedings has reasonable prospects of success.

Signature

Capacity

Date of signature



Solicitor on record
25 August 2022

AFFIDAVIT VERIFYING

Name Joseph Tannous
 Address 17-116 McCredie Road, Guildford NSW 2161
 Occupation Director
 Date 25 August 2022

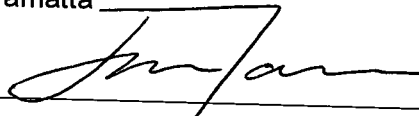
I say on oath:

1. I am the director of the Fourth Defendant and I am authorised to swear this affidavit on its behalf.
2. I believe that the allegations of fact contained in the defence are true.
3. I believe that the allegations of fact that are denied in the defence are untrue.
4. After reasonable inquiry, I do not know whether or not the allegations of fact that are not admitted in the defence are true.

SWORN at

Parramatta

Signature of deponent



Name of witness

George Hadziti

Address of witness

Suite 4, 18-20 Ross Street, Parramatta NSW 2150

Capacity of witness

Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

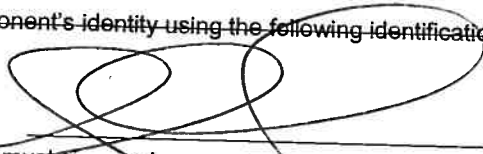
1. I saw the face of the deponent.

~~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. *[OR, delete whichever option is inapplicable]*

~~I have confirmed the deponent's identity using the following identification document:~~

Signature of witness



Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

FURTHER DETAILS ABOUT FILING PARTY

Filing party

First Defendant

Name Joseph Tannous
Address 17/116 McCredie Road
GUILDFORD NSW 2161

Second Defendant

Name Moussa Tannous
Address 17/116 McCredie Road
GUILDFORD NSW 2161

Third Defendant

Name Charbel Tannous
Address 17/116 McCredie Road
GUILDFORD NSW 2161

Fourth Defendant

Name Kwik Flo Pty Ltd
Address 17/116 McCredie Road
GUILDFORD NSW 2161

Legal representative for filing party

Name George Hadchiti
Practising certificate number 46897
Firm Paramonte Legal
Contact solicitor George Hadchiti
Address Suite 4, Ground Floor, 18-20 Ross Street
Parramatta NSW 2150
DX address DX 8263 Parramatta
Telephone 02 9635 7388
Fax 02 9630 7051
Email ghadchiti@paramontelegal.com.au
Electronic service address ghadchiti@paramontelegal.com.au