

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMON LAW DIVISION
MAJOR TORTS LIST**

No 9575/2004

BETWEEN

GUNNS LIMITED & Ors

Plaintiffs

- and -

ALEXANDER MARR & Ors

Defendants

**REQUEST FOR FURTHER AND BETTER PARTICULARS OF
STATEMENT OF CLAIM (version 3)**

Delivered pursuant to the Order of the Honourable Justice Bongiorno
made 17 August 2005

| | |
|-----------------------------|-------------------------------|
| Date of document: | 14 September 2005 |
| Filed on behalf of: | The Twentieth Defendant |
| Prepared by: | Solicitors Code: 84 |
| Coadys | DX: 190 Melbourne |
| Barristers & Solicitors | Tel: (03) 9621 1499 |
| 15 th Floor | Fax: (03) 9621 1804 |
| AMP Tower 535 Bourke Street | e-mail: vanessa@coadys.com.au |
| MELBOURNE VIC 3000 | Ref: VB:20050486 |

THE Twentieth Defendant requests that by 26 October 2005 the Plaintiffs provide the following further and better particulars of their Statement of Claim (version 3) dated 15 August 2005.

TAKE NOTICE:

A: that wherever in this request you are asked to give the "usual particulars" of any act, fact, matter, thing, agreement, arrangement, transaction, discussion, understanding, notification, instruction, request, statement, representation, advice, broadcast, response, term, tender, material or any other matter whatsoever, you are thereby required to state whether the same was in writing or partly so, oral or partly so, or to be implied or partly so. Insofar as the same was

or is in writing, set out the document or documents constituting the same and say in whose possession the same now is or are and where the same may be inspected. If any document is believed to be lost or destroyed, state the substance thereof to the best of your recollection or belief and in whose possession it was last known to reside. Insofar as the same was oral, state when, where, how and between which actual persons the conversation or discussion or conversations or discussions constituting the same took place and set out the substance of each such conversation or discussion or conversations or discussions. Insofar as it was or is to be implied, set out each act, fact, matter or thing with all material dates and places giving rise to each such implication.

B: In this request “document” has the meaning given by the *Evidence Act 1958* (Vic.);

C: In this request, “writing” includes marks, figures, drawings, and symbols.

1. AS TO PARAGRAPH 308 THEREOF:

(a) Set out each act, fact, matter or other thing together with the usual particulars thereof which it is alleged comprise, constitute or are otherwise part of:

(i) the First Plaintiff’s alleged loss and damage;

(ii) the First Plaintiff’s alleged trouble and inconvenience;

(b) Set out the calculations by which the alleged sum of \$25,000 is arrived at.

2. AS TO PARAGRAPH 489(a) THEREOF:

Give the usual particulars of each discussion alleged.

3. AS TO PARAGRAPH 489(c)(i) THEREOF:

Give the usual particulars of the agreement alleged.

4. AS TO PARAGRAPH 490(a) THEREOF:

- (a) Set out each act, fact, matter or other thing together with the usual particulars thereof by reason of which it is alleged that the first statement was:
 - (i) false;
 - (ii) malicious;
- (b) state the:
 - (i) name of the television news service;
 - (ii) name of the television station;
 - (iii) time of and duration of the broadcast.

5. AS TO PARAGRAPH 490(b) THEREOF:

Set out each act, fact, matter or other thing together with the usual particulars thereof by reason of which it is alleged that:

- (a) the Nineteenth Defendant exhibited, caused or otherwise communicated a media release on the website referred to;
- (b) the second statement was a media release;
- (c) the Twentieth Defendant operated the website www.doctorsforforests.com.

6. AS TO PARAGRAPH 490(d) THEREOF:

- (a) Set out each act, fact, matter or other thing together with the usual particulars thereof by reason of which it is alleged that the Nineteenth Defendant delivered the second statement to various media organisations in Tasmania, or caused the second statement to be so delivered;
- (b) Specify each media organisation to which it is alleged that the Nineteenth Defendant delivered the second statement or caused the second statement to be so delivered.

7. AS TO PARAGRAPH 493 THEREOF:

- (a) Set out each act, fact, matter or other thing together with the usual particulars thereof which it is alleged comprise, constitute or are otherwise part of:
 - (i) the First Plaintiff's alleged injury to its standing and prestige;
 - (ii) the First Plaintiff's alleged damage;
- (b) Set out the calculations by which the alleged sum of \$150,000 is arrived at.

8. AS TO PARAGRAPH 495 THEREOF:

- (a) Set out each act, fact, matter or other thing together with the usual particulars thereof which it is alleged comprise, constitute or are otherwise part of:
 - (i) the First Plaintiff's alleged injury to its trade and business;
 - (ii) the First Plaintiff's alleged loss and damage;
 - (iii) the alleged testing;
- (b) Specify the quantum of the First Plaintiff's alleged loss and damage and set out the calculations by which that quantum is arrived at;
- (c) Without limiting the generality of paragraph (b) of this request, specify the cost of the alleged professional consultants' fees and set out the calculations by which that cost is arrived at;
- (d) Set out each act, fact, matter or other thing together with the usual particulars thereof which it is alleged comprise, constitute or are otherwise part of:
 - (i) the First Plaintiff's alleged trouble and inconvenience;
 - (ii) the Second Plaintiff's alleged trouble and inconvenience;
 - (iii) the Third Plaintiff's alleged trouble and inconvenience;
- (e) Specify the quantum of the Second Plaintiff's alleged damages and set out the calculations by which that quantum is arrived at;

- (f) Specify the quantum of the Third Plaintiff's alleged damages and set out the calculations by which that quantum is arrived at.

9. AS TO PARAGRAPH 628 THEREOF:

- (a) Set out each act, fact, matter or other thing together with the usual particulars thereof which it is alleged comprise, constitute or are otherwise part of:
 - (i) the First Plaintiff's alleged loss and damage;
 - (ii) the First Plaintiff's alleged trouble and inconvenience;
- (b) Give the usual particulars of:
 - (i) the alleged reports;
 - (ii) the alleged legal advice;
- (c) Set out the calculations by which the sum of \$100,000 alleged in paragraph 628(a) is arrived at;
- (d) Set out the calculations by which the sum of \$300,000 alleged in paragraph 628(b) is arrived at.

10. AS TO PARAGRAPH 684 THEREOF:

- (a) Set out each act, fact, matter or other thing together with the usual particulars thereof which it is alleged comprise, constitute or are otherwise part of:
 - (i) the First Plaintiff's alleged loss and damage;
 - (ii) the First Plaintiff's alleged trouble and inconvenience;
- (b) Give the usual particulars of:
 - (i) the alleged reports;
 - (ii) the alleged legal advice;
- (c) Set out the calculations by which the sum of \$25,000 alleged in paragraph 684(a) is arrived at;
- (d) Set out the calculations by which the sum of \$20,000 alleged in

paragraph 684(b) is arrived at.

DATED: 14 September 2005

Coadys
Solicitors for the Twentieth Defendant