

**IN THE FEDERAL COURT OF AUSTRALIA (FCA)  
NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA  
FAIR WORK DIVISION** **No: NSD580/2012**

**NOTICE OF FILING**

This document was filed electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 13/06/2012.

**DETAILS OF FILING**

**Document Lodged:** Affidavit - Form 59 - Rule 29.02(1)  
**File Number:** NSD580/2012  
**File Title:** James Hunter Ashby v Commonwealth of Australia & Anor  
**District Registry:** NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



★ **Date:** 14/06/2012

**Registrar**

*David Soden*

**Note**

This Notice forms part of the document and contains information that might otherwise appear elsewhere in the document. The Notice must be included in the document served on each party to the proceeding.



**Affidavit**

No: NSD580/2012

**Federal Court of Australia**

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA and another according to the Schedule**  
First Respondent

Affidavit of: Siobhan Michelle Keating  
Address: 456 Lonsdale Street, Melbourne, Vic, 3000  
Occupation: Legal Practitioner  
Date: 13 June 2012

I, Siobhan Michelle Keating, of 456 Lonsdale Street, Melbourne, Legal Practitioner, affirm:

1. I am a solicitor in the employ of Maurice Blackburn Lawyers (**Maurice Blackburn**), which represents the Second Respondent in this proceeding (**the Proceeding**).
2. The statements set out in this affidavit are made from my information, knowledge and belief based on instructions given to me by the Second Respondent or from my own personal knowledge.
3. On 18 May 2012, Justice Rares made orders in relation to the Proceeding (**18 May Order**) including an order that the Respondents file and serve any application to strike out the Statement of Claim, in whole or in part, and any application to stay or dismiss the Proceeding, on or before 8 June 2012. His Honour ordered that any strike out application be fixed for hearing on 15 June 2012 and any application to stay or dismiss the Proceeding be listed for directions on that day.

Form 59, Rule 29.02(1)

Filed on behalf of	Mr Peter Slipper, the Second Respondent		
Prepared by	Siobhan Keating, Legal Practitioner		
Law firm	Maurice Blackburn Lawyers		
Tel	(03) 9605 2831	Fax	(03) 9258 9613
Email	jborstein@mauriceblackburn.com.au		
Address for service	Level 10, 456 Lonsdale Street, Melbourne, Vic, 3000		

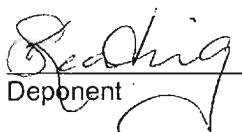
Deponent

Taken by

4. On 28 May 2012, the Applicant served, in accordance with Order 4 of the 18 May Order an affidavit of Mr Rodney McKemmish (**McKemmish Affidavit**) and an affidavit of Mr Michael Harmer.

**Leave to Issue Subpoenas**

5. I have analysed the affidavit of McKemmish. It annexes two CDs, marked RDM-2 and RDM-3. RDM-2 contains a forensic image of an iPhone said to belong to the Applicant. RDM-3 contains a spreadsheet of data extracted from that iPhone including logs of SMS messages, MMS messages and Chat messages sent to and from the Applicant's iPhone.
6. The annexures to the McKemmish Affidavit show, in the period 1 February 2012 through 12 April 2012, communications relevant to the purpose or purposes for which the Proceeding was commenced, between the Applicant and a number of people (**relevant communications**) including:
  - (a) a journalist in the employ of News Limited;
  - (b) a senior member of the Liberal National Party in Queensland;
  - (c) another member of the Second Respondent's personal staff; and
  - (d) a professional media adviser.
7. Based on my analysis of the affidavit of McKemmish I have formed the view that the relevant communications provide a basis for inferring that the Proceedings were substantially or wholly commenced for a collateral purpose such that the Proceeding constitutes an abuse of process.
8. After analysing the McKemmish Affidavit in the manner described above, on 8 June 2012 the Second Respondent filed an Interlocutory Application seeking, inter alia, final relief and/or an order that the Proceeding be stayed on the grounds that the Proceeding constitutes an abuse of process. Annexed hereto and marked **SK-1** is a copy of the Second Respondent's Interlocutory Application (**Interlocutory Application**).

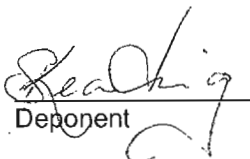
  
Deponent

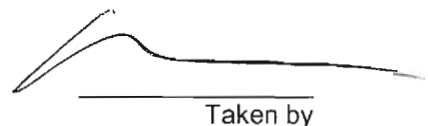
  
Taken by

9. I have also formed the view that further documents and records are relevant to the issue of the purpose for which the Proceeding was substantially or wholly commenced and thus relevant to the disposal of the Interlocutory Application, namely, all communications in the period leading up to and immediately after the commencement of the Proceeding: (1) between the Applicant and each of the individuals referred to in paragraph 6 above, and (2) all such communications between each of the individuals referred to in paragraph 6.
10. Accordingly, the Second Respondent respectfully seeks the leave of the Court to issue subpoenas to produce documents for this purpose as against the Applicant and each of the individuals referred to in paragraph 6. Annexed hereto and marked **SK-2** are copies of the proposed subpoenas.

**Variation of Order of 18 May 2012**

11. The primary relief sought in the Interlocutory Application is the final relief or permanent stay of the Proceeding on the grounds of abuse of process.
12. Consolidating the hearing of the Second Respondent's applications for the strike out and the final relief/stay is desirable in that:
  - (a) if the Second Respondent is successful in his application to stay the Proceeding, the strike out application would be rendered otiose; and
  - (b) the issue of whether there is a reasonable cause of action against the Second Respondent is common to both applications.
13. This approach would avoid the duplication of proceedings and is consistent with the overarching purpose set out in section 37M(1) of the *Federal Court of Australia Act 1976* (Cth) in that it will best facilitate the resolution of the dispute as quickly, inexpensively and efficiently as possible.

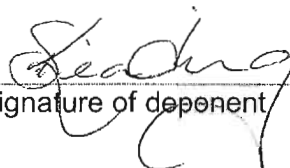
  
Deponent

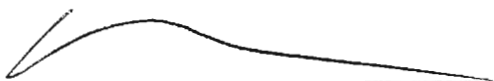
  
Taken by

14. On the basis of the foregoing the Second Respondent seeks an order varying Order 6 of the Order of Justice Rares of 18 May 2012, such that the totality of the prayer for relief set out in the Interlocutory Application be heard together on a date to be fixed, such date being not earlier than the date for compliance with the subpoenas that are annexure SK-2.

Affirmed by the deponent  
at Melbourne  
in Victoria  
on 13 June 2012  
Before me:

)  
)  
)  
)  
)

  
Signature of deponent



Legal Practitioner

NEALE THOMAS PATERSON  
of 453 Lygon Street, Melbourne  
an Australian Legal Practitioner  
within the meaning  
of the Legal Profession Act, 2004.

Federal Court of Australia

NSD580/2012

District Registry: New South Wales

Division: Fair Work

**Schedule**

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA**

First Respondent

**PETER SLIPPER**

Second Respondent

**Federal Court of Australia**

No: NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA and another according  
to the Schedule**

First Respondent

Affidavit of: Siobhan Michelle Keating

Address: 456 Lonsdale Street, Melbourne, Vic, 3000

Occupation: Legal Practitioner

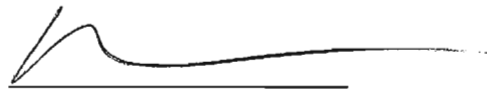
Date: 13 June 2012

**CERTIFICATE IDENTIFYING ANNEXURE**

This is the annexure marked "**SK-1**" now produced and shown to **Siobhan Michelle Keating** at the time of affirming her affidavit on 13 June 2012.

Before me:

NEALE DAMIEN PATTERSON  
of 463 Lonsdale Street, Melbourne  
an Assisted Legal Practitioner  
within the meaning  
of the Legal Profession Act, 2004.



**Annexure "SK-1"  
SECOND RESPONDENT'S INTERLOCUTORY  
APPLICATION DATED 8 JUNE 2012**

**IN THE FEDERAL COURT OF AUSTRALIA (FCA)  
NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA  
FAIR WORK DIVISION** **No: NSD580/2012**

**NOTICE OF FILING AND HEARING**

This application was filed electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 8/06/2012.

**DETAILS OF FILING**

**Document Lodged:** Interlocutory Application (Fair Work Schedule 3 Exemption) - Form 35 - Rule 17.01(1)(a)  
**File Number:** NSD580/2012  
**File Title:** James Hunter Ashby v Commonwealth of Australia & Anor  
**District Registry:** NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA  
**Reason for Listing:** Directions  
**Time and date for hearing:** 15/06/2012, 9:30 AM  
**Place:** To Be Advised



*Warwick Soden*

**Dated:** 12/06/2012

**Registrar**

**NOTES**

1. This Notice forms part of the application and contains information that might otherwise appear elsewhere in the application. The Notice must be included in the application served on each party to the proceeding.
2. The 'reason for listing' is descriptive and does not limit the issues that might be dealt with, or orders that might be made, at the hearing.





## Interlocutory Application

**Federal Court of Australia**

No: NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA and another according  
to the Schedule**

First Respondent

To the Applicant

The Second Respondent applies for the interlocutory orders set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

**Time and date for hearing:** 15 June 2012

**Place:** Level 17, Commonwealth Law Courts Building  
Queens Square  
SYDNEY NSW 2000

The Court ordered that the time for serving this application be abridged to 8 June 2012.

Date: 8 June 2012

Signed by an officer acting with the authority  
of the District Registrar

Form 35, Rule 17.01(1)

Filed on behalf of	Peter Slipper, the Second Respondent		
Prepared by	Josh Bornstein		
Law firm	Maurice Blackburn Lawyers		
Tel	(03) 9605 2831	Fax	(03) 9258 9613
Email	jbornstein@mauriceblackburn.com.au		
Address for service	Level 10, 456 Lonsdale Street, Melbourne, Vic, 3000		



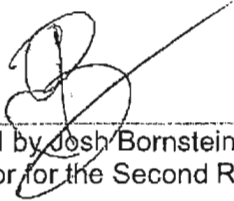
### Interlocutory orders sought

1. Pursuant to rule 26.01 of the Rules, an order that judgment be given against the Applicant because the proceeding as against the Second Respondent is an abuse of the process of the Court.
2. In the alternative to order 1, an order that the proceeding as against the Second Respondent be permanently stayed as an abuse of the process of the Court.
3. In the alternative to orders 1 and 2, pursuant to rule 6.02 of the Rules, an order that the Applicant must not continue the proceeding as against the Second Respondent without the leave of the Court on the ground that the Applicant started a vexatious proceeding against the Second Respondent.
4. Pursuant to rule 26.01 of the Federal Court Rules 2011 (**the Rules**) an order that judgment be given against the Applicant because no reasonable cause of action against the Second Respondent is disclosed.
5. Further or in the alternative, pursuant to rule 16.21 of the Rules an order that the Statement of Claim served by the Applicant on 15 May 2012 (**the Claim**), in so far as it alleges any contraventions, or conduct constituting contraventions, of the *Fair Work Act 2009* (Cth) against the Second Respondent, be struck out on the ground that the Claim fails to disclose a reasonable cause of action.
6. In the alternative to order 5, pursuant to rule 16.21 of the Rules, an order that paragraphs 26, 27, 28, 31, 32(b) and 32(c)(ii) of the Claim be struck out on the ground that the Claim fails to disclose a reasonable cause of action.
7. Costs; and
8. Such further or other orders as the Court considers appropriate.

### Service on the Applicant and First Respondent

It is intended to serve this application on the Applicant and the First Respondent.

Date: 8 June 2012

  
Signed by Josh Bornstein  
Solicitor for the Second Respondent



**Federal Court of Australia**

NSD580/2012

District Registry: New South Wales

Division: Fair Work

**Schedule**

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA**

First Respondent

**PETER SLIPPER**

Second Respondent

**Federal Court of Australia**

No: NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA and another according  
to the Schedule**

First Respondent

Affidavit of: Siobhan Michelle Keating

Address: 456 Lonsdale Street, Melbourne, Vic, 3000

Occupation: Legal Practitioner

Date: 13 June 2012

**CERTIFICATE IDENTIFYING ANNEXURE**

This is the annexure marked "**SK-2**" now produced and shown to **Siobhan Michelle Keating** at the time of affirming her affidavit on 13 June 2012.

Before me:

MEALE DAMIEN PATTERSON  
of 456 Lonsdale Street, Melbourne  
an Australian Legal Practitioner  
within the meaning  
of the Legal Profession Act, 2004.



**Annexure "SK-2"  
DRAFT SUBPOENAS**

## Subpoena to Produce Documents

**Federal Court of Australia**

No: NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA and another according  
to the Schedule**

First Respondent

To: Anthony McClellan

**You are ordered to produce this subpoena or a copy of it and the documents or things specified in the Schedule.** See next page for details.

**Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.**

Please read Notes 1 to 13 at the end of this subpoena.

The last date for service of this subpoena is Friday 15 June 2012

Date: 13 June 2012

Signed by an officer acting with the authority  
of the District Registrar

Issued at the request of the Second Respondent, whose address for service is:

Place: Level 10, 456 Lonsdale Street, Melbourne Vic 3000

Email: jbornstein@mauriceblackburn.com.au

Form 43B, Rule 24.13(1)(b)

Filed on behalf of Mr Peter Slipper, the Second Respondent

Prepared by Siobhan Keating, Legal Practitioner

Law firm Maurice Blackburn Lawyers

Tel (03) 9605 2831

Fax (03) 9258 9613

Email jbornstein@mauriceblackburn.com.au

Address for service Level 10, 456 Lonsdale Street, Melbourne, Vic, 3000

**Details of subpoena**

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (*See Notes 5–9*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things, unless you receive a notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date: Friday 22 June 2012  
Time: 10am  
Place: Registry, Federal Court of Australia  
Level 17, Law Courts Building  
Queen's Square  
SYDNEY, 2000

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar  
New South Wales District Registry  
Level 17  
Law Courts Building

### Schedule

The documents and things you must produce are as follows:

All documents evidencing or recording or constituting communications in the period from 1 February 2012 to 27 April 2012 (inclusive) between:

- (a) Anthony McClellan and James Ashby; and
- (b) Anthony McClellan and each of: (1) Steve Lewis, (2) Malcolm Brough, and/or (3) Karen Doane.

**'Document'** includes, without limitation, originals and copies of all correspondence, letters, memoranda, minutes, written and electronic communications, emails, SMS messages, MMS messages, Chat messages, diary notes, forms, internal memoranda, telephone memoranda, reports, file notes, agreements, accounts, receipts, invoices, computer discs, computer and video and master tapes and any other form of digital or electronic storage of information.

**Notes****Last day for service**

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

**Informal service**

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

**Addressee a corporation**

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

**Conduct money**

4. You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.

**Production of subpoena or copy of it and documents or things by delivery or post**

5. If this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the Registrar:
  - (a) at the address specified in the subpoena for the purpose; or
  - (b) if more than one address is specified - at any of those addresses;so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production, or if you receive notice of a later date from the issuing party, before the later date or time.
6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.



**Production of a number of documents or things**

8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

**Production of copy instead of original**

9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.
- 9A. The copy of a document may be:
- (a) a photocopy; or
  - (b) in an electronic form that the issuing party has indicated will be acceptable.

**Applications in relation to subpoena**

10. You have the right to apply to the Court:
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
  - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

**Loss or expense of compliance**

11. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

**Contempt of court - arrest**

12. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
13. Note 12 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

**Schedule**

**Federal Court of Australia**

NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA**

First Respondent

**PETER SLIPPER**

Second Respondent

## Subpoena to Produce Documents

**Federal Court of Australia**

No: NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA and another according  
to the Schedule**

First Respondent

To: Malcolm Brough

**You are ordered to produce this subpoena or a copy of it and the documents or things specified in the Schedule. See next page for details.**

**Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.**

Please read Notes 1 to 13 at the end of this subpoena.

The last date for service of this subpoena is Friday 15 June 2012

Date: 13 June 2012

Signed by an officer acting with the authority  
of the District Registrar

Issued at the request of the Second Respondent, whose address for service is:

Place: Level 10, 456 Lonsdale Street, Melbourne Vic 3000

Email: jbornstein@mauriceblackburn.com.au

Form 43B, Rule 24.13(1)(b)

Filed on behalf of Mr Peter Slipper, the Second Respondent

Prepared by Siobhan Keating, Legal Practitioner

Law firm Maurice Blackburn Lawyers

Tel (03) 9605 2831 Fax (03) 9258 9613

Email jbornstein@mauriceblackburn.com.au

Address for service Level 10, 456 Lonsdale Street, Melbourne, Vic, 3000

**Details of subpoena**

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (*See Notes 5–9*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things, unless you receive a notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date: Friday 22 June 2012  
Time: 10am  
Place: Registry, Federal Court of Australia  
Level 17, Law Courts Building  
Queen's Square  
SYDNEY, 2000

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar  
New South Wales District Registry  
Level 17  
Law Courts Building

### Schedule

The documents and things you must produce are as follows:

All documents evidencing or recording or constituting communications in the period from 1 February 2012 to 27 April 2012 (inclusive) between:

- (a) Malcolm Brough and James Ashby; and
- (b) Malcolm Brough and each of: (1) Karen Doane, (2) Steve Lewis, and/or (3) Anthony McClellan.

**'Document'** includes, without limitation, originals and copies of all correspondence, letters, memoranda, minutes, written and electronic communications, emails, SMS messages, MMS messages, Chat messages, diary notes, forms, internal memoranda, telephone memoranda, reports, file notes, agreements, accounts, receipts, invoices, computer discs, computer and video and master tapes and any other form of digital or electronic storage of information.

**Notes****Last day for service**

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

**Informal service**

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

**Addressee a corporation**

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

**Conduct money**

4. You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.

**Production of subpoena or copy of it and documents or things by delivery or post**

5. If this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the Registrar:
  - (a) at the address specified in the subpoena for the purpose; or
  - (b) if more than one address is specified - at any of those addresses;
 so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production, or if you receive notice of a later date from the issuing party, before the later date or time.
6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

**Production of a number of documents or things**

8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

**Production of copy instead of original**

9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.
- 9A. The copy of a document may be:
- (a) a photocopy; or
  - (b) in an electronic form that the issuing party has indicated will be acceptable.

**Applications in relation to subpoena**

10. You have the right to apply to the Court:
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
  - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

**Loss or expense of compliance**

11. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

**Contempt of court - arrest**

12. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
13. Note 12 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

**Schedule**

**Federal Court of Australia**

NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA**

First Respondent

**PETER SLIPPER**

Second Respondent



## Subpoena to Produce Documents

**Federal Court of Australia**

No: NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA and another according  
to the Schedule**

First Respondent

To: Karen Doane

**You are ordered to produce this subpoena or a copy of it and the documents or things specified in the Schedule. See next page for details.**

**Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.**

Please read Notes 1 to 13 at the end of this subpoena.

The last date for service of this subpoena is Friday 15 June 2012

Date: 13 June 2012

Signed by an officer acting with the authority  
of the District Registrar

Issued at the request of the Second Respondent, whose address for service is:

Place: Level 10, 456 Lonsdale Street, Melbourne Vic 3000

Email: jbornstein@mauriceblackburn.com.au

Form 43B, Rule 24.13(1)(b)

Filed on behalf of Mr Peter Slipper, the Second Respondent

Prepared by Siobhan Keating, Legal Practitioner

Law firm Maurice Blackburn Lawyers

Tel (03) 9605 2831 Fax (03) 9258 9613

Email jbornstein@mauriceblackburn.com.au

Address for service Level 10, 456 Lonsdale Street, Melbourne, Vic, 3000

**Details of subpoena**

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (See *Notes 5–9*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things, unless you receive a notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date: Friday 22 June 2012  
Time: 10am  
Place: Registry, Federal Court of Australia  
Level 17, Law Courts Building  
Queen's Square  
SYDNEY, 2000

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar  
New South Wales District Registry  
Level 17  
Law Courts Building

### Schedule

The documents and things you must produce are as follows:

*All documents evidencing or recording or constituting communications in the period from 1 February 2012 to 27 April 2012 (inclusive) between:*

- (a) *Karen Doane and James Ashby; and*
- (b) *Karen Doane and each of: (1) Steve Lewis, (2) Malcolm Brough, and/or (3) Anthony McClellan.*

**'Document'** *includes, without limitation, originals and copies of all correspondence, letters, memoranda, minutes, written and electronic communications, emails, SMS messages, MMS messages, Chat messages, diary notes, forms, internal memoranda, telephone memoranda, reports, file notes, agreements, accounts, receipts, invoices, computer discs, computer and video and master tapes and any other form of digital or electronic storage of information.*

**Notes****Last day for service**

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

**Informal service**

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

**Addressee a corporation**

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

**Conduct money**

4. You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.

**Production of subpoena or copy of it and documents or things by delivery or post**

5. If this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the Registrar:
  - (a) at the address specified in the subpoena for the purpose; or
  - (b) if more than one address is specified - at any of those addresses;
 so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production, or if you receive notice of a later date from the issuing party, before the later date or time.
6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

**Production of a number of documents or things**

8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

**Production of copy instead of original**

9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.
- 9A. The copy of a document may be:
- (a) a photocopy; or
  - (b) in an electronic form that the issuing party has indicated will be acceptable.

**Applications in relation to subpoena**

10. You have the right to apply to the Court:
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
  - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

**Loss or expense of compliance**

11. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

**Contempt of court - arrest**

12. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
13. Note 12 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

**Schedule**

**Federal Court of Australia**

NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA**

First Respondent

**PETER SLIPPER**

Second Respondent

## Subpoena to Produce Documents

**Federal Court of Australia**

No: NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA and another according  
to the Schedule**

First Respondent

To: Steve Lewis

**You are ordered to produce this subpoena or a copy of it and the documents or things specified in the Schedule.** See next page for details.

**Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.**

Please read Notes 1 to 13 at the end of this subpoena.

The last date for service of this subpoena is Friday 15 June 2012

Date: 13 June 2012

Signed by an officer acting with the authority  
of the District Registrar

Issued at the request of the Second Respondent, whose address for service is:

Place: Level 10, 456 Lonsdale Street, Melbourne Vic 3000

Email: jbornstein@mauriceblackburn.com.au

Form 43B, Rule 24.13(1)(b)

Filed on behalf of Mr Peter Slipper, the Second Respondent

Prepared by Siobhan Keating, Legal Practitioner

Law firm Maurice Blackburn Lawyers

Tel (03) 9605 2831 Fax (03) 9258 9613

Email jbornstein@mauriceblackburn.com.au

Address for service Level 10, 456 Lonsdale Street, Melbourne, Vic, 3000

**Details of subpoena**

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (*See Notes 5–9*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things, unless you receive a notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date: Friday 22 June 2012  
Time: 10am  
Place: Registry, Federal Court of Australia  
Level 17, Law Courts Building  
Queen's Square  
SYDNEY, 2000

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar  
New South Wales District Registry  
Level 17  
Law Courts Building



### Schedule

The documents and things you must produce are as follows:

All documents evidencing or recording or constituting communications in the period from 1 February 2012 to 27 April 2012 (inclusive) between:

- (a) Steve Lewis and James Ashby; and
- (b) Steve Lewis and each of: (1) Karen Doane, (2) Malcolm Brough, and/or (3) Anthony McClellan.

**'Document'** includes, without limitation, originals and copies of all correspondence, letters, memoranda, minutes, written and electronic communications, emails, SMS messages, MMS messages, Chat messages, diary notes, forms, internal memoranda, telephone memoranda, reports, file notes, agreements, accounts, receipts, invoices, computer discs, computer and video and master tapes and any other form of digital or electronic storage of information.

**Notes****Last day for service**

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

**Informal service**

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

**Addressee a corporation**

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

**Conduct money**

4. You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.

**Production of subpoena or copy of it and documents or things by delivery or post**

5. If this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the Registrar:
  - (a) at the address specified in the subpoena for the purpose; or
  - (b) if more than one address is specified - at any of those addresses;so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production, or if you receive notice of a later date from the issuing party, before the later date or time.
6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

**Production of a number of documents or things**

8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

**Production of copy instead of original**

9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.
- 9A. The copy of a document may be:
- (a) a photocopy; or
  - (b) in an electronic form that the issuing party has indicated will be acceptable.

**Applications in relation to subpoena**

10. You have the right to apply to the Court:
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
  - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

**Loss or expense of compliance**

11. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

**Contempt of court - arrest**

12. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
13. Note 12 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

**Schedule**

**Federal Court of Australia**

NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA**

First Respondent

**PETER SLIPPER**

Second Respondent

## Subpoena to Produce Documents

**Federal Court of Australia**

No: NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA and another according  
to the Schedule**

First Respondent

To: James Ashby

**You are ordered to produce this subpoena or a copy of it and the documents or things specified in the Schedule. See next page for details.**

**Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.**

Please read Notes 1 to 13 at the end of this subpoena.

The last date for service of this subpoena is Friday 15 June 2012

Date: 13 June 2012

Signed by an officer acting with the authority  
of the District Registrar

Issued at the request of the Second Respondent, whose address for service is:

Place: Level 10, 456 Lonsdale Street, Melbourne Vic 3000

Email: jbornstein@mauriceblackburn.com.au

Form 43B, Rule 24.13(1)(b)

Filed on behalf of	Mr Peter Slipper, the Second Respondent
Prepared by	Siobhan Keating, Legal Practitioner
Law firm	Maurice Blackburn Lawyers
Tel	(03) 9605 2831 Fax (03) 9258 9613
Email	jbornstein@mauriceblackburn.com.au
Address for service	Level 10, 456 Lonsdale Street, Melbourne, Vic, 3000

**Details of subpoena**

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (*See Notes 5–9*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things, unless you receive a notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date: Friday 22 June 2012  
Time: 10am  
Place: Registry, Federal Court of Australia  
Level 17, Law Courts Building  
Queen's Square  
SYDNEY, 2000

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar  
New South Wales District Registry  
Level 17  
Law Courts Building

**Schedule**

The documents and things you must produce are as follows:

All documents evidencing or recording or constituting communications in the period from 1 February 2012 to 27 April 2012 (inclusive) between James Ashby and each of: (1) Malcolm Brough, (2) Karen Doane, (3) Steve Lewis, and/or (4) Anthony McClellan.

**'Document'** includes, without limitation, originals and copies of all correspondence, letters, memoranda, minutes, written and electronic communications, emails, SMS messages, MMS messages, Chat messages, diary notes, forms, internal memoranda, telephone memoranda, reports, file notes, agreements, accounts, receipts, invoices, computer discs, computer and video and master tapes and any other form of digital or electronic storage of information.

**Notes****Last day for service**

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

**Informal service**

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

**Addressee a corporation**

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

**Conduct money**

4. You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.

**Production of subpoena or copy of it and documents or things by delivery or post**

5. If this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the Registrar:
  - (a) at the address specified in the subpoena for the purpose; or
  - (b) if more than one address is specified - at any of those addresses;so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production, or if you receive notice of a later date from the issuing party, before the later date or time.
6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.



**Production of a number of documents or things**

8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

**Production of copy instead of original**

9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.
- 9A. The copy of a document may be:
- (a) a photocopy; or
  - (b) in an electronic form that the issuing party has indicated will be acceptable.

**Applications in relation to subpoena**

10. You have the right to apply to the Court:
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
  - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

**Loss or expense of compliance**

11. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

**Contempt of court - arrest**

12. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
13. Note 12 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

**Schedule**

**Federal Court of Australia**

NSD580/2012

District Registry: New South Wales

Division: Fair Work

**JAMES HUNTER ASHBY**

Applicant

**COMMONWEALTH OF AUSTRALIA**

First Respondent

**PETER SLIPPER**

Second Respondent