

**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 7/09/2012.

DETAILS OF FILING

Document Lodged: Interlocutory Application - 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: Interlocutory Hearing
Time and date for hearing: 02/10/2012, 9:30 AM
Place: Court Room 19E, Level 17 Law Courts Building Queen's Square, Sydney



A handwritten signature in blue ink that reads 'Warwick Soden'.

Dated: 7/09/2012

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.



Form 35
Rule 17.01(1)

INTERLOCUTORY APPLICATION

**FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: NEW SOUTH WALES
DIVISION: FAIR WORK**

NO NSD 580 OF 2012

JAMES HUNTER ASHBY

Applicant

THE COMMONWEALTH OF AUSTRALIA

and another named in the Schedule

Respondents

To:

James Hunter Ashby, the Applicant
Peter Slipper, the Second Respondent

The First 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: 2 October 2012

PLACE: Law Courts Building, Queens Square, Sydney NSW
2000

Date:

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

Filed on behalf of the First Respondent, the Commonwealth of
Australia

File ref: 12026851

Prepared by: Catherine Mann

Australian Government Solicitor.

Address for Service:
Australian Government Solicitor,
50 Blackall Street, Barton, ACT 2600
catherine.mann@ags.gov.au

Telephone: 02 6253 7402
Lawyer's Email: catherine.mann@ags.gov.au
Facsimile: 02 6253 7381
DX5678 Canberra



INTERLOCUTORY ORDERS SOUGHT

1. Pursuant to s 31A(2) of the *Federal Court of Australia Act 1976* and/or r 26.01(1)(a) of the Federal Court Rules, the Court dismiss the Applicant's claim against the Commonwealth for damages for breach of contract on the basis that the Applicant has no reasonable prospect of successfully prosecuting that part of the proceeding.
2. The Applicant pay the First Respondent's costs:
 - 2.1. of and incidental to responding to the claims for damages for breach of contract, contained in paragraphs 53 to 56 of the originating application dated 20 April 2012, paragraphs 33 to 35 of the statement of claim dated 15 May 2012 and paragraph (d) of the relief claimed in the amended originating application dated 18 May 2012, on and from 20 April 2012; and
 - 2.2. of and incidental to defending the claims for damages for breach of contract on an indemnity basis on and from 18 July 2012.
3. The Applicant pay the First Respondent's costs of this application on an indemnity basis.

SERVICE ON THE APPLICANT AND SECOND RESPONDENT

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

Date: 30 August 2012

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a long horizontal stroke.

.....
Damien O'Donovan
A lawyer employed by
Australian Government Solicitor
Lawyer for the First Respondent



Schedule

**FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: NEW SOUTH WALES
DIVISION: FAIR WORK**

NO NSD 580 OF 2012

Respondents

Second Respondent

Peter Slipper

Date: 30 August 2012