

**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		
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### 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