NOTICE OF FILING

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Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Form 34
Rule 16.33

Reply

No. VID1454 of 2025

Federal Court of Australia
District Registry: Victoria
Division: General

Ryan Luke Meuleman
Applicant

Daniel Michael Andrews
First Respondent

Catherine Louise Andrews
Second Respondent

Save as to any admissions made in the Defence or any admissions made by the Applicant as set out below, the Applicant denies any positive allegations made in the Defence, otherwise joins issue with the Defence, and says further by way of Reply:-

In this Reply, unless stated otherwise, the Applicant continues to use the terms defined in the Applicant's Statement of Claim dated 4 November 2025 (**SOC**) and adopts the terms defined in the Respondents' Defence dated 10 February 2026 (**the Defence**).

Background to the Joint Media Statement

1. Save for the admissions contained in subparagraphs 9(a) to (c) the Applicant denies [9], and says further:

    (i) that many of the allegations in subparagraphs 9(d) and (e) were improper, unjustifiable and lacking in *bona fides* (particularly when read together with the allegations in paragraphs 11 and 12 of the Defence, informed by the

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particulars in the Schedule), and he will rely upon the making of them at trial in support of his claim for aggravated damages;

(b) he admits the allegation in subparagraph 9(d)(i) and says further that:

(A) Dr Shuey was a former police officer and Assistant Commissioner for Traffic and Operations in Victoria Police;

(B) in or around September 2023 (prior to Dr Shuey being formally retained by Mr Meuleman's lawyers or any of the relevant subpoenas being issued in the Supreme Court Proceeding but after he had visited the site of the Collision and reviewed publicly available and/or reported documents concerning the Collision), Dr Shuey was interviewed by Michael Warner;

(C) in the interview, Dr Shuey reportedly criticised the Police investigation into the Collision, identifying numerous alleged concerns which he said undermined its original findings, and in response to a statement reportedly issued by a Police spokesperson, said he would be "embarrassed to classify it as a thorough investigation";

(D) on or around 9 May 2024, Dr Shuey was formally retained by the Applicant's then lawyers Princeton Legal to act as an expert witness in relation to the Supreme Court Proceeding;

Particulars

The interview between Mr Warner and Dr Shuey was reported in an article published by the Herald Sun on 15 September 2023 under the headline "*Former top cop 'disturbed' by 'apparent undermining' of Andrews car crash probe*", which is already referred to in paragraph 4 of the Schedule to the Respondents' Defence, and presently accessible at https://www.heraldsun.com.au/news/victoria/former-top-cop-disturbed-by-apparent-undermining-of-andrews-car-crash-probe/news-story/755a0b3d7d6ebbb165e0815db3c46eb0.

Prior to the commencement of the Supreme Court Proceeding on 22 June 2023, the Herald Sun had published other articles written by Mr Warner, based on documents which could not have been obtained through the compulsive processes of the Supreme Court Proceeding, which raised serious questions in relation to the Police investigation into the Collision, and included similar comments by other former police:

i. https://www.heraldsun.com.au/news/victoria/secret-police-file-and-pictures-shed-new-light-on-dan-andrews-family-crash/news-

story/f8edb37e6a9f82aa90cedefac1d52aca (already referred to in paragraph 4 of the Schedule to the Respondents' Defence)

ii. https://www.heraldsun.com.au/news/victoria/patient-care-report-contradicts-premiers-claims-their-vehicle-was-tboned-by-the-bike/news-story/fd25e87a6e88683f408df4463a350621

iii. https://www.heraldsun.com.au/news/victoria/new-police-documents-cast-doubt-over-officers-breath-testing-call-in-andrews-family-cyclist-crash/news-story/00b39f436b7a4f745ceb22b6c4d59cda

A copy of a letter of instruction dated 9 May 2024 from Princeton Legal to Dr Shuey can be provided upon request.

(c) denies the allegations in subparagraph 9(d)(ii) and says further that;

(A) Dr Shuey was retained as a police investigations expert to provide his expert opinion that was compliant with Order 44 of the *Supreme Court (General Civil Procedure) Rules 2015*;

(B) The expert opinion on the police investigation of the Collision was relevant to the Supreme Court Proceeding as:

(I) the Applicant had suffered serious injury;

(II) the Applicant alleged in the Supreme Court Proceeding that the settlement sum of approximately $80,000 was substantially lower than he ought to have recovered; and

(III) relief was sought against Slater and Gordon on the basis of its failure properly to investigate liability;

(C) Dr Shuey was qualified to provide the expert opinions sought.

Particulars

Dr Shuey was a former police officer and Assistant Commissioner for Traffic and Operations in Victoria Police, the President of the International Safety Foundation and was made a Member of the Order of Australia in 2022 for his contribution to road safety.

Dr Shuey completed a PhD in international road safety in 2012, authored several publications on road safety and consulted on road safety and operational safety in Australia and worldwide.

(ii) denies the allegation in subparagraph 9(d)(iii) and says further that:

(A) it may be inferred that most, if not all, of the opinions in the Shuey Report were based on information obtained from sources that were not subject to the Harman Undertaking;

(B) if (which is denied) the Shuey Report contained information which was subject to the Harman Undertaking, the alleged undertaking only applied to that "information", not the whole Shuey Report;

Particulars

The Applicant requested further particulars of paragraph 9(d)(iii) of the Defence. On 23 February 2026, the Respondents responded by letter referring to the relevant subpoenas to Victoria Police, the TAC and ESTA as having been issued on 6 February 2024.

The relevant "information" was identified at subparagraphs 5(c) and (e) of the letter as follows:

(c) The documents produced by ESTA in response to the subpoenas included an 'event chronology' of a recording of Mr Andrews' phone call made to '000' on 7 January 2013, recordings of phone calls made to '000' on 7 January 2013 by Martha Rodas, and a document entitled 'ESTA 000 release 8/03.2024' (ESTA 000 Release).

(e) The Shuey Report contained information sourced from one or more of the subpoena'd records, including information sourced from TIS Reports, Notes/Requests, Form 502s, EPDRs, the ESTA 000 Release, an 'ESTA call log' and 'TAC Reports' (see Shuey Report, pp 11, 12, 14, 16, 19, 21-26, 33, 34 and attachment A).

While documents of that type were produced in response to subpoenas and provided to Dr Shuey by the Applicant's previous lawyers, the Applicant says that:

i. in response to a Notice to Produce, the Respondents produced a copy of the Shuey Report. The source of that copy is not clear given the Respondents allegations in the Schedule at paragraph 13;

ii. reviewing the copy of the Shuey Report, there is no express reference in the Shuey Report to information from documents produced on subpoenas informing the opinions, and only one express reference to a document obtained on subpoena: on page 12, which refers to a summary of a TIS report, notes Dr Shuey had seen three versions of the TIS report, and says the version obtained on subpoena in 2024 was the same as "*the version provided to O'Donohue in 2017*". The copy does not include any Annexure A of the kind referred to the respondents' particulars;

iii. the Applicant's present understanding is that documents of the kind identified in the Respondents' further particulars had already been obtained from other sources (including in response to FOI applications), prior to the Applicant commencing the Supreme Court Proceeding (and issuing the subpoenas).

iv. the Respondents knew or ought to have known this from the fact that they have been questioned on or made public statements in relation to the belated release of such documents in 2017, and

because the production of those documents from other sources in 2022 and early 2023 (prior to the commencement of the Supreme Court Proceeding) had reportedly led Dr Shuey and other senior police to publicly express similar opinions previously (see the Herald Sun articles identified in the particulars to paragraph 1.(b)(B) above).

Given Dr Shuey has passed away, the Applicant cannot now ask Dr Shuey whether any information in the Shuey Report was based upon the subpoenaed documents. However, the Herald Sun Articles expressly state that the Shuey Report was "*based on analysis of FOI documents, witness statements and Dr Shuey's own reconstruction of the incident*". It may be inferred that Mr Warner (an experienced journalist, familiar with the Harman Undertaking and ethically bound to report accurately), had satisfied himself that was an accurate statement and he was not committing a contempt in reporting on the Shuey Report.

Further, in all the circumstances, including Mr Warner's interview with Dr Shuey published on 15 September 2023 (referred to above, and relied on in subparagraph 4v. of the Schedule to the Defence), the obvious inference is that Dr Shuey was a source for the Herald Sun Articles and the statement in those articles that the Shuey Report was "*based on his analysis of FOI documents, witness statements and Dr Shuey's own reconstruction of the incident*".

(C) further and in any event, the information in the Shuey Report that has been alleged (in further particulars) as having been obtained as a result of the compulsive processes of the Supreme Court of Victoria, was tendered without objection and deployed in evidence in an interlocutory application, meaning that the Harman Undertaking would have (if it ever applied) no longer applied to that information;

Particulars

On 6 February 2024, the Applicant caused subpoenas to be issued to the Respondents (the **Andrews Subpoenas**).

The Andrews Subpoenas sought from the Respondents, amongst other things, contemporaneous phone records made and received by the Respondents on 7 January 2013 relating to the Collision.

The Respondents objected to complying with the Andrews Subpoenas, on the basis that they had been issued for an improper collateral purpose, had no legitimate forensic purpose, and were an abuse of process.

In late June 2024, prior to the hearing of the Respondents' objections, due to be heard on 8 July 2024, the Applicant offered to narrow the class of documents sought by the subpoenas. Prior to the hearing, the Respondents maintained their objection to the Andrews Subpoenas.

Accordingly, on 4 and 5 July 2024, the Applicant filed and served the affidavit of Sarah Hinchcliffe sworn 4 July 2024 and Exhibit SH-1 (**Hinchcliffe Affidavit**) and written submissions dated 5 July 2024. Amongst other things, those documents explained the legitimate forensic purpose of the Andrews Subpoenas, including the evidentiary basis of the

Applicant's case, and how Dr Shuey intended to use any documents produced in response to the Andrews Subpoenas.

Based on the Respondents' further particulars of paragraph 9(d)(iii) of the Defence, the information alleged to be the subject of the Harman Undertaking was likely annexed to the Hinchcliffe Affidavit and described in the Applicant's written submissions.

On 8 July 2024, the Respondents' objection to the Andrews Subpoenas was before the Court for hearing and determination (**Subpoena Hearing**). At that hearing, the Hinchcliffe Affidavit (which was also referred to in the Respondents' written submissions dated 7 July 2024) was read and relied upon, without objection, and the Court ordered the Respondents to produce documents pursuant to the narrowed schedule to the Andrews Subpoenas.

In the premises, to the extent any material that was subject to any Harman Undertaking was included in the Hinchcliffe Affidavit, any such undertaking was exhausted upon the Hinchcliffe Affidavit being read and relied upon in open court at the Subpoena Hearing.

(iii) admits the allegations in subparagraph 9(d)(iv) and (v), and says further that:

(A) in circumstances where:

(I) Dr Shuey died prior to the extended date for filing in the Supreme Court Orders; and

(II) the Applicant's claims the subject of the Supreme Court Proceeding were settled prior to any trial or any expert evidence being deployed in evidence in that Proceeding,

there is no proper basis to draw any adverse inferences as to any fact in issue in this proceeding, based on the fact the Shuey Report was not filed, served or deployed in evidence in the Supreme Court Proceeding, particularly where, if the Shuey Report or any of the information within it had been deployed in settlement negotiations in the Supreme Court Proceeding, the parties would be precluded from leading evidence of those communications and deployment;

(B) it may be inferred (contrary to the allegations at paragraphs 13 and 14 of the Schedule, which imply but do not expressly state that the only persons with access to the Shuey Report at the time of the Herald Sun Articles were the Applicant, his lawyers and the Meuleman Cohort) that the Respondents and other journalists

whom the Respondents were communicating with obtained a copy of the Shuey Report by 17 September 2024 or prior to this proceeding;

Particulars

Broede Carmody of *The Age* (to whom the Respondents published the Joint Media Statement on 17 September 2024 only an hour or so earlier) reported in the Online Article at 5:40pm on 17 September 2024 that *The Age* had seen a copy the Shuey Report.

The Respondents have produced a copy of the Shuey Report in this proceeding. It is not clear when or how they obtained that copy.

(iv) denies the allegation in paragraph 9(e) and says further that if the Respondents' allegations in subparagraphs 9(d)(iii)-(v) are correct (which is denied) and the Applicant's legal representatives remain subject to the Harman Undertaking (which is denied), then as persons with knowledge of that undertaking, the Respondents and their lawyers were also subject to the Harman Undertaking in relation to their use and disclosure of the Shuey Report, when they relied upon it in their Defence.

The Matter Complained Of

2. Save to admit [13(a)] the Applicant joins issue with [13] and says further that:

(a) the email from Mr Zwier to Network Ten included further additional introductory words, which are not pleaded in [13(a)] of the Defence, stated to be "not for publication", including "*I understand you are reporting on today's media concerning Daniel and Catherine Andrews*" (**the Network Ten Email introduction**);

(b) the additional words in the "Joint Statement" as pleaded in [13(a)] of the Defence, and the Network Ten Email Introduction, provide context to when, why and by whom the Joint Media Statement were published, but do not materially alter or qualify the Applicant's pleaded imputations; and

Particulars

The difference between the pleaded words in the Joint Statement and the Joint Media Statement are the date, the heading "STATEMENT FOR ATTRIBUTION TO DANIEL AND CATHERINE ANDREWS", and the first sentence from the Joint Statement "*We completely reject conspiracy theories dressed up as journalism*", which is missing from the words pleaded in SOC [13] and several of the republications (which instead

simply describe the Joint Media Statement as being a statement made by the Andrews in response to the Herald Sun Articles).

That sentence, as with the heading and the Network Ten Email Introduction, is relevant to the reply to attack defence as it explains that the Joint Statement was published in response to the Herald Sun Articles (being the alleged "*conspiracy theories dressed up as journalism*").

Otherwise, while the label "conspiracy theories" is material to meaning, that same description is already applied to the Shuey Allegations in the final sentence of the Joint Media Statement, where those allegations are described as "*appalling conspiracy theories"*. Accordingly, the Joint Media Statement (as pleaded) and Joint Statement (as pleaded) both convey substantially the same defamatory meanings and (for the purposes of the presently pleaded republication claims) substantially the same defamatory sense and substance.

(c) while the Respondents have not sought to strike in the additional words in the "Joint Statement" as pleaded in [13] of the Defence, the Applicant will seek to formally agree the form of the matter complained of with the Respondents after subpoenas (including to Channel Nine and Network Ten) but prior to the determination of meaning.

Serious Harm

3. Save as to the limited admissions made below, the Applicant joins issue with [19A] to [19C] and without pleading to the particulars, the Applicant:

(a) admits that between the date of the Collision and the date of the Joint Statement (primarily from 2013 to 2017) the Respondents made various public statements setting out their version of events in relation to the Collision and subsequent police investigation, some but not all of which were to similar effect as some of the matters pleaded in [19B], and some of which varied in their detail and emphasis;

(b) admits that between the date of the Collision and the date of the Joint Statement (primarily from 2022 onwards), the Applicant (and on occasion, his father, Peter Meuleman) has made several public statements setting out his version of events in relation to the Collision and subsequent police investigation, some but not all of which were to the similar effect as some of the matters pleaded in [19C];

(c) otherwise denies the allegations in [19A] to [19C], including on the basis that there have been other public statements to different effect and emphasis; and

(d) says further that:

(i) none of the alleged public statements concerned or impugned the Applicant's reputation for honesty and integrity, but rather concerned the cause of the Collision and the adequacy of the subsequent police investigation and therefore, at most, could only have affected the Applicant's reputation as a safe bike rider; and

(ii) the allegations in the Joint Media Statement were of a new and different kind to any past public statement and were inherently likely to cause serious harm to the Applicant's reputation for honesty and integrity for the reasons pleaded and particularised in the SOC.

4. Save to admit [19D(a)] and that media organisations were only likely to publish parts or the whole of the Joint Statement in the context of republications that also referred to the Herald Sun Articles and the Shuey Report, the Applicant denies [19D].

5. Save to:

(a) admit [19E(a)] and to say further that by reason of that admission:

(i) any individual prior public statements or reports of the kind alleged in [19A] to [19C] are not relevant to any justiciable controversy arising in this proceeding, or otherwise, relevant to the serious harm element; and

(ii) the Applicant will now, in addition to the matters previously pleaded and particularised in his SOC, rely on these now agreed facts in support of his allegations that the Joint Media Statement was of and concerning him in SOC [16], and conveyed the imputations pleaded by him in SOC [17] and [18];

the Applicant otherwise denies [19E] including:

(b) [19E(b)] on the basis that Joint Media Statement did not acknowledge the existence of any "intractable factual dispute" between the Applicant and the Respondents as to the cause of the Collision and instead:

(i) labelled the Applicant's version of the facts and criticisms of the adequacy of the police investigation, as supported by the findings of his expert witness in the Shuey Report, "appalling conspiracy theories";

(ii) falsely suggested that the "Victoria Police and integrity agencies" had "comprehensively and independently investigated" the parties' different versions of the facts as to the cause of the Collision and criticisms of the adequacy of the subsequent police investigation, including the matters referred to and relied upon in the Shuey Report as reported by the Herald Sun Articles, and found that:

(A) the Respondents had done "nothing wrong";

(B) the Applicant's version of the facts in relation to circumstances of the Collision had been shown to be wrong;

(C) there could be no longer be any legitimate criticism of the police investigation;

(iii) implied that the Applicant had brought legal proceedings against his former lawyers based on matters he knew to be lies and conspiracy theories, in order to obtain money and/or a financial advantage to which he was not entitled; and

(iv) thereby impugned the Applicant's honesty and the propriety of his conduct, as pleaded in the imputations at paragraphs 17 and 18 of the SOC; and

(c) [19E(c)] on the basis that even accepting the facts alleged in [19E(a)] of the Defence, in light of the matters pleaded and particularised at SOC [19] and [3] above, there is an overwhelming inference that the publication of the Joint Statement and/or the Pleaded Republications have caused, and are likely to cause, serious harm to the Applicant's reputation.

Concerns Notice

6. The Applicant:

(a) does not admit [20(a)], because, while he admits that his former solicitors gave each of the Respondents the Original Concerns Notices, he does not admit that those letters compliant with all of the requirements of s12A of the Act, and therefore he does not admit they were "concerns notices within the meaning of the Act";

(b) admits [20(b)] and says further that, by the Respondents' solicitors' letter dated 17 February 2025, the Respondents:

(i) described the Original Concerns Notices as "*purported … concerns notices…. pursuant to the [Act]*", "*defective*" and lacking in any evidence that the Applicant had suffered any relevant harm (introduction and numbered paragraphs 12 and 22); and

(ii) repeatedly asserted that the Joint Media Statement responded to (or was "*clearly made in response to*" or replied to the attack in) the Herald Sun Articles (described as the Warner Article) which purported to report on an opinion authored by the late Dr Shuey (introduction, and numbered paragraphs 7, 8, 10, 16, 24(c) and 24(d), set out further at [8] below);

(c) does not admit [20(c)] and says further:

(i) he refers to and repeats subparagraphs 6(a) and 6(b)(i) above and says further that the Original Concerns Notice did not include the imputation pleaded in paragraphs 17(c) and 18(c) of the SOC, which was added in the Further Concerns Notice; and

(ii) in the premises, if the Applicant had commenced defamation proceedings without sending the Further Concerns Notice and waiting the additional "applicable period", there was a risk that any defamation proceeding may have been struck out on the basis it contravened s12B(1) of the Act;

(d) save that he says he says his solicitors "lodged" the Originating Application and SOC with this Court on 4 November rather than on 6 November 2025, he admits [20(d) to (h)].

Qualified Privilege

7. Save to admit that the Respondents published the Joint Statement in response to the Herald Sun Articles, the Applicant denies [24] and says further:

(a) if (which is denied) the Joint Statement was:

(i) published in response to, or in the context of, "repeated defamatory attacks" over many years (as is alleged in subparagraph 24(b) of the Defence, supported by particular viii); and

(ii) no different in substance to the previous public statements made by or on behalf of the parties about the cause and circumstances of the Collision (see paragraphs 19A, 19B and 19E(a) and (b) of the Defence),

then the Joint Statement was in the nature of a riposte, published as the Applicant's reply to the Respondents' earlier attacks, meaning the common law defence of reply to attack is not available to the Respondents; and

Particulars

Most, if not all, of the public statements made by the Respondents of the kind alleged in paragraph 19Eiii of the Defence (that attributed blame for the Collision to the Applicant) were made in 2013, 2014 and 2017.

The first public statements made by the Applicant of the kind alleged in paragraph 19Eii were made in 2022 and were actuated by, and published in reply to, those earlier public statements made by the Respondents.

(b) further or alternatively, any prima facie entitlement of the Respondents to rely on the defence of reply to attack qualified privilege is defeated by malice.

Particulars

The Respondents published the Joint Statement dishonestly:

i. knowing that the Joint Statement was false (or that substantial parts of it, and the effects it was intended to convey, were false);

ii. further or alternatively, without any honest belief in what they stated (or substantial parts of what they stated) in it.

Further particulars of facts from which the Respondents' knowledge of falsity or a lack of any honest belief are to be inferred are set out in the **Annexure** to this Reply.

The Respondents' malice may also be inferred from the gratuitous, disproportionate and excessive nature of Joint Statement, which did not confine itself to contesting allegations (as alleged in the Herald Sun Articles or the Meuleman Publications) or undermining the opinions expressed by Dr Shuey as reported in the Herald Sun (or the Meuleman Publications), but instead took improper advantage of the occasion to tar the Applicant and anyone who considered there were legitimate concerns and questions remaining about the cause of the Collision and its investigation by the Police (which was on any reasonable view inadequate and flawed), with peddling "appalling conspiracy theories".

Further or alternatively, the publication of the Joint Statement was actuated by Respondents' ill will towards their perceived attackers and political opponents; further or alternatively, intended to shut down any further investigation of or reporting into the legitimate concerns and questions raised by the Shuey Report, as reported in the Herald Sun

Articles, so that no one would have the courage to raise them further; further or alternatively to vent the Respondents' fury.

Mitigation

8. The Applicant denies [25] and says further:

(a) none of those allegations in the Defence can be relied upon for the purpose of mitigation including because:

(i) reliance on them for the purposes of seeking to mitigate damages offends the exclusionary rules in cases such as *Scott v Sampson* and *Dingle* and the *Burstein* exception of "directly relevant background facts", which have been consistently applied in this Court, and which are consistent with sections 37M and 37P of the FCA Act and s135(c) of the Evidence Act; and

(ii) it is not apparent how the allegations in the Schedule could provide any logical basis to mitigate the Applicant's entitlement to damages for injury to feelings;

(b) the Respondents' pleading of at least some of those matters in the Schedule and the Defence was improper, unjustifiable and lacking in *bona fides,* and will be relied upon at trial of this proceeding as part of the Applicant's claim for aggravated damages.

9. The Applicant denies [26] and says further:

(a) none of the collateral allegations in paragraph 26(a) to (i) are in and of themselves reasonably capable of being relevant to mitigation of damages, and (it appears) have only been included to support the conclusionary plea at 26(j), which is akin to an allegation that this proceeding has been commenced and continued for collateral purposes that amount to an abuse of process; the Respondents' allegations in [26] were and are themselves improper, unjustifiable and lacking in *bona fides,* and will be relied upon at trial of this proceeding as part of the Applicant's claim for aggravated damages;

(b) to paragraphs 26(a) to (c) of the Defence, he further refers to and repeats paragraph 3 above, says further that the Respondents' own prior public

statements blaming the Applicant for the Collision cannot be relied upon to mitigate any damages, and that in any event the defamatory publications now being sued on were of a different character and were made when circumstances have changed;

Particulars

The use of those statements for the purposes of mitigating damages would be contrary to the rule in *Dingle*, which has been repeatedly affirmed and applied by this Court.

For the reasons pleaded above, the prior public statements were of a very different character to the Joint Media Statement (while they have caused the Applicant significant distress and mental health issues) and could only have affected a different sector of the Applicant's reputation, namely his reputation as a bike rider.

Further and in any event, the previous public statements made by the Respondents during over the last 10 years in which they expressly or impliedly asserted that Mr Meuleman was to blame for the Collision and that Mr Meuleman's version of events was incorrect were primarily made in 2013, 2014 and 2017.

(i) At the time of the Collision and initial public statements in 2013 he was 15 years old and hospitalised. Thereafter he was traumatised.

(ii) The Applicant only reached 18 years of age on 19 November 2015.

(iii) On 3 December 2015, the Applicant was advised by his then solicitors (Slater and Gordon) and counsel (Craig Sidebottom) that:

(a) the settlement of the Applicant's claim was extremely sensitive and highly confidential; and

(b) any discussions or disclosure of any part of the claim or settlement agreement relating to the claim with anyone will breach terms of the settlement agreement and will have severe adverse legal repercussions for him; and

(c) any discussion or disclosure of the terms of his settlement agreement relating to the claim would expose him to possibly having to pay back the settlement sum.

(**2015 Legal Advice**)

(iv) The 2015 Legal Advice caused the Applicant to be in fear of speaking to anyone and/or seeking independent legal advice regarding the merits of the settlement of the TAC Claim and the conduct of the Respondents.

(v) It was only in or about October 2022 when, after being distressed and retraumatised by constantly seeing the First Respondent on television during the COVID-19 Lockdown, the Applicant was persuaded by his father that "he would not go to gaol" if he sought independent legal advice on the merits of the TAC Claim and the conduct of Slater and Gordon, and that he should do so.

(vi) By the time the Applicant first sought independent legal advice, any potential cause of action in defamation for any of those earlier public statements, which were in any event of a very different character to the Joint Media Statement, was statute barred.

Other relevant changes in circumstance include:

(vii) The Applicant being healthier and more emotionally stable, and feeling more supported and personally capable; and

(viii) Mr Andrews no longer being the Premier of Victoria.

(c) to paragraphs 26(d) and (e) of the Defence, he:

(i) refers to and repeats paragraphs 20 and 21 of the Statement of Claim and his response to paragraph 20 of the Defence pleaded at paragraph 6 above; and

(ii) says further that these allegations could not provide any basis to mitigate damages or reasonably support an inference of abuse of process and, instead, together with the allegations in paragraphs 21 and 22 of the SOC, support the contrary inference;

Particulars

The fact that the Applicant took careful steps to comply with Part 3 Division 1 of the Act, including seeking specialist defamation advice from his current lawyers and sending the Further Concerns Notice (which offered to settle his defamation claim for the modest apology set out in SOC [21], which would have vindicated the Applicant in respect of the defamatory imputations, but did not require the Respondents to admit fault or blame in relation to the Collision or the police investigation, and therefore would have achieved none of the collateral purposes alleged), actually supports the contrary inferences to those the Respondents are inviting this Court to draw.

(d) to paragraph 26(f) of the Defence, he joins issue with the underlying allegations and says further:

(i) that in circumstances where it is clear or admitted that:

(A) the Respondents have, since 2013, made repeated public statements alleging (in effect) that the Applicant was at fault for the Collision, and the Respondents were able to effectively make that position known to the Australian and Victorian communities; and

(B) the Applicant honestly and genuinely believed, on reasonable grounds, that the Respondents were at fault for the Collision and that the Respondents' version of events was false and should not be believed, and there had been no widespread publication of his position prior to 2022,

there would be nothing improper with the Applicant seeking to correct the public record, put his version of events, or conduct the Supreme Court Proceeding and this proceeding (with or without the assistance of others), and this is not a proper or relevant basis to mitigate damages or infer any collateral purpose;

(ii) that the motives of the other persons who have allegedly assisted the Applicant to allegedly do any of those things are irrelevant, and none of the conduct alleged in 26(f) that is attributed to him could (even it was established) provide any rational basis to draw the inference alleged in subparagraph 26(j) of the Defence;

(e) to paragraphs 26(i) of the Defence, he:

(i) says that, while it will be open to the Respondents at trial to cross-examine the Applicant to suggest that he was not genuinely hurt or embarrassed by the Joint Media Statement, the Respondents' pleaded intention to rely at trial on numerous otherwise irrelevant hearsay reports of statements made by others under the guise of establishing a negative ought not be used to impermissibly circumvent the numerous long-standing rules and case management principles designed to stop marginally relevant allegations diverting and delaying the fair trial of the proceeding; and

(ii) denies the allegation therein and says further that the allegation cannot sensibly be reconciled with the other allegations in the Defence, which seek to attribute responsibility for numerous public statements on those

sites to the Applicant, including those which are relied upon for other purposes which in fact do exactly that;

Particulars

This allegation, as informed by the particulars, is plainly wrong and contradicted by public statements on those sites the Respondents have attributed to the Applicant elsewhere in the Defence. For example, the Applicant refers to and repeats those parts of the statement posted on the Go Fund Me page on 28 January 2025.

The Applicant may provide further particulars of other public statements following discovery and prior to trial.

(f) to paragraphs 26(j) of the Defence, he repeats and his response to each of the subparagraphs set out above and otherwise denies the allegation;

Date: 10 April 2026

Signed by Natalija Nikolić
Lawyer for the Applicant

This pleading was prepared by Natalija Nikolić, lawyer, and settled by Michael D Wyles one of His Majesty's Counsel in and for the State of Victoria, Toby J Mullen and Angus M Christopherson of counsel.

Certificate of lawyer

I Natalija Nikolić, certify to the Court that, in relation to the reply filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for:

(a) each allegation in the pleading; and

(b) each denial in the pleading; and

(c) each non admission in the pleading.

Date: 10 April 2026

Signed by Natalija Nikolić
Lawyer for the Applicant

ANNEXURE TO [8(B)] OF REPLY

The Collision

10. On 7 January 2013, just after 1.00pm, the Collision occurred.

11. By reason of the Respondents' involvement in the Collision, they knew, and were aware of at the time of publishing the Joint Media Statement, the facts that:

    (a) Brad Morgan, a nearby resident, attended the scene in the immediate aftermath of the Collision and went to the intersection of Melbourne Road to stop vehicles entering Ridley Street and potentially striking the Applicant while he was still lying on the road;

    (b) Jane Crittenden attended the scene in the immediate aftermath of the Collision and rendered immediate assistance to the Applicant, including by placing a towel under his head so that he was not lying on the hot asphalt;

    (c) the Collision caused serious injury to the Applicant and resulted in him being airlifted to the Royal Children's Hospital;

    (d) police attended the scene via two police officers, Senior Constable Sage and Constable Ward;

    (e) neither Respondent was subjected to a preliminary breath test (**PBT**) by police;

    (f) before any forensic examination of the SUV could occur, the SUV was moved from the scene by the First Respondent;

    (g) the SUV sustained damage to the windscreen, bonnet and front bumper;

    (h) police:

        (i) did not notify the Major Collision Investigation Unit;

        (ii) did not tape off the scene of the Collision;

        (iii) did not preserve the scene of the Collision for examination;

        (iv) did not conduct separate interviews with passengers over what they saw and heard;

        (v) did not take high resolution photos of the bike, the environment or damage to car;

        (vi) did not take measurements;

        (vii) did not collect CCTV footage from nearby properties.

2013 Police Investigation

12. Between 7 January 2013 and 2 February 2013, the Victoria Police conducted a police investigation of the Collision involving the Respondents (**2013 Police Investigation**).

13. By reason of the Respondents' involvement in the 2013 Police Investigation, they knew, and were aware of at the time of publishing the Joint Media Statement, the facts that:

    (a) the Second Respondent was in contact with Victoria Police throughout the 2013 Police Investigation about the Applicant's condition and the Applicant's statement to Police, including:

        (i) by telephone on 13 January 2013 in relation to the Applicant's statement;

        (ii) by telephone on 17 January 2013 in relation to the Applicant's condition, and the First Respondent's statement;

        (iii) by telephone on 26 January 2013 in relation to the status of the police investigation and about the police speaking with the Applicant;

    (b) the First Respondent had given a statement to Victoria Police on 5 February 2013; and

    (c) the Second Respondent had given a statement to Victoria Police on 31 January 2013.

PSC Investigation and the IBAC Review

14. Between about 17 January 2013 and 14 March 2013, the Professional Standards Command conducted an investigation into the failure to conduct a PBT on the driver involved in the Collision (**PSC Investigation**).

15. In late 2017, after Victoria Police refused to release to the media under FOI documents concerning the Police investigation of the Collision (see paragraphs 12 to 13 below), the Independent Broad-based Anti-Corruption Commission (**IBAC**) conducted a review of the PSC Investigation (**IBAC Review**).

16. On 26 October 2017, the IBAC issued a statement recording:

    As part of its legislated functions, IBAC regularly reviews the handling of alleged misconduct by Victoria Police. IBAC is expecting a police investigation file relating to the conduct of police officers at the scene of a traffic accident involving the then Opposition Leader and his family in January 2013. IBAC will be reviewing the file in accordance with standard practice. IBAC is not investigating the incident or the conduct of the Premier, Mr Andrews, or any member of his family.

17. By reason of the First Respondent's political position and being questioned on the Collision, the 2013 Police Investigation, the PSC Investigation, the IBAC statement described in paragraph 9 and the IBAC Review, the Respondents knew, or were aware

of, the facts that:

(a) the PSC Investigation commenced on about 17 January 2013;

(b) the IBAC commenced the IBAC Review in around October 2017, and this was a not full investigation under the IBAC Act using IBAC's full investigative, statutory and coercive powers but rather a far more limited review of a type which has been regularly criticised by integrity experts; and

(c) IBAC issued a media release on or around 13 December 2017 in which it stated that it had:

(i) completed an independent review of Victoria Police's investigation into the conduct of police officers at the scene of a motor vehicle accident at Blairgowrie in January 2013;

(ii) found no deficiencies or areas of concern in relation to Victoria Police's investigation of police conduct in the matter; and

(iii) IBAC was satisfied the findings of the Victoria Police were reasonable based on the available evidence.

18. The Respondents were therefore aware prior to the Joint Media Statement that:

(a) the PSC Investigation was limited to the failure to conduct a PBT on the driver;

(b) the IBAC Review was limited to a review of the PSC Investigation and was not a thorough statutory investigation by IBAC of either the 2013 Police Investigation or the cause of the Collision;

(c) neither the PSC Investigation nor the IBAC Review involved any review of the other inadequacies or inconsistencies in the 2013 Police Investigation, including the failure of Victoria Police to:

(i) notify the Major Collision Investigations Unit or Highway Patrol;

(ii) notify police hierarchy of a public, political figure being involved in a serious collision;

(iii) record an exact point of impact;

(iv) record the point of rest of the SUV;

(v) record the point at which the Applicant landed;

(vi) preserve the SUV for proper forensic examination;

(vii) take any action in response to an observed breach of the road rules, namely that a passenger in the SUV failed to wear a seatbelt;

(viii) capture and record high resolution scene photographs, including of the SUV and the bicycle; and

(ix) obtain statements from witnesses (including the Applicant).

2017 Press Conferences

19. Prior to 23 October 2017, documents relating to the 2013 Police Investigation were released per a freedom of information request made by Edward O'Donohue MP (**2017 FOI Documents).**

20. On about 23 October 2017, Channel 9 was advised that Victoria Police refused to release documents relating to the 2013 Police Investigation under FOI on the grounds that release was not in the public interest.

21. On about 25 October 2017, the First Respondent convened a press conference (**First October Press Conference**).

22. During this First October Press Conference, the First Respondent stated:

> *"the roadway was clear. We turned. We were about to accelerate to then move down the road. And he crashed at such, such force into the side of the car.*
>
> *[the Applicant] came from the right, right on our eye line if you like. Hit around that mirror on the side and the wheel and then was put up into the windscreen and over the top of the car.*
>
> *that's what happened and if only we could change that. You can draw your own conclusions if you feel the need to. Frankly I don't think anything is gained by it.*
>
> *if I'm wrong in that, if the family wants to talk to me, I'm more than happy to do that. But I don't wanna be lobbing on their doorstep, essentially going back through the whole thing again. I don't know that anything is served by that. If they wanted to talk to me, if they were comfortable with that, that's what I'm concerned about.*
>
> *I'm not concerned about how it looks. I am concerned, because if I was, maybe we would have done things a bit differently. I am concerned not to be turning up as the Premier of the State, you know, where they might feel they couldn't say no, they might feel that they had, you know, how do we say no to a meeting? There's nothing really to be gained*."

23. A video of the First October Press Conference is accessible via https://www.youtube.com/watch?v=aTYwbfJCcqo

24. The First October Press Conference occurred on the same day that the IBAC announced the launch of the IBAC Review and requested the files from Victoria Police in relation to the 2013 Police Investigation.

25. On about 26 October 2017, the First Respondent convened a further press conference (**Second October Press Conference**).

26. During the Second October Press Conference, the First Respondent stated:

> "*so we come to a compete stop, because there's a, there's a lot of oncoming traffic, there's a learner driver driving under speed and we waited for what seemed a bit longer than you normally would to let the learner driver come past, we then turned right,*
>
> *and only moments after we have made that right hand turn, we're probably actually in the process of straightening up, on, still making the turn there's a bike track that runs parallel to the Road we had turned off, and it's pretty well hidden by tea tree,*
>
> *the next thing we know, one of the most sickening, awful things that I have ever experienced happens. A young man on a bike plows into the side of the car. If he'd been driving a car and not riding a bike you would accurately describe it as he T boned our car that is how you would properly describe it.*
>
> *he hits the side of the car, he's then into the windshield and when I say into the windshield the windshield is completely ah, depressed back inside the car, he's almost in the car with us*."

27. The First Respondent knew:

(a) his description of the Collision conveyed in the 2017 Press Conferences was inconsistent with the physical damage to the SUV and injuries sustained by the Applicant;

(b) his description of the Collision would give the impression that the Collision was caused solely by the Applicant;

(c) he had not attempted to contact the Applicant or his family to discuss the Collision or the 2013 Police Investigation;

(d) the Press Conferences contained statements that contradicted earlier public comments, such as the First Respondent now saying that police advised him not to contact the Applicant where previous statements suggested that he had formed the view that it was inappropriate for him to do so, or embellished details such as the Applicant hit around the mirror on the driver's side not which were not included in his statement to Police.

28. Based on the timing of the Press Conferences (namely after Victoria Police refused journalists access to the 2013 Police Investigation documents and the announcement of the IBAC Review), and the statements made by the First Respondent, it can be inferred that the First Respondent intended the 2017 Press Conferences to shut down legitimate questioning by journalists and concerned citizens about the Collision and the 2013 Police Investigation.

The Supreme Court Proceedings, the Andrews Subpoenas and the Subpoena Hearing

29. Between about 6 February 2024 and about 24 July 2024, the Respondents were involved in the Supreme Court Proceedings, by virtue of each being issued with the Andrews Subpoenas, their objections to them and their instruction of their lawyers in relation to the

Subpoena Hearing.

30. By reason of the Respondents' involvement in the Supreme Court Proceedings and the Subpoena Hearing, they knew of, and were aware of at the time of publishing the Joint Media Statement:

    (a) correspondence between the Applicant's then solicitors and the Respondents' solicitors;

    (b) the Hinchcliffe Affidavit;

    (c) the further affidavit of Sarah Hinchcliffe sworn 5 July 2024 and Exhibit SH-2, being a signed statement by the Applicant setting out his version of the Collision (the **Applicant's statement**);

    (d) the submissions on the objections to the Andrews Subpoenas filed on 5 July 2024.

    (e) the witness statements of Mr Morgan and Ms Crittenden, which were provided to the Respondents' solicitors by email.

Correspondence from Princeton Legal

31. By letter dated 24 May 2024, the Applicant's solicitors (**Princeton Legal**) wrote to the Respondents via their solicitors (Mr Zwier and Ms Ward) and explained the legitimate forensic purpose of the Andrews Subpoenas (**Letter from Princeton Legal**), including by reference to the claims made in the Supreme Court Proceeding.

32. By reason of the Letter from Princeton Legal, and their responses to it, the Respondents knew, and were aware of at the time of publishing the Joint Media Statement, that:

    (a) the Applicant had suffered serious injury and had resolved his claim for a net sum of approximately $80,000;

    (b) the Applicant alleged in those proceedings that this amount was substantially lower than he ought to have recovered;

    (c) the Applicant sought relief from Slater and Gordon on the basis that, by reason of its failure properly to investigate liability, it had negligently performed an incorrect assessment of the Applicant's claim; and

    (d) the Applicant had identified 28 anomalies which suggested liability for the Collision had been incorrectly assessed by Slater and Gordon.

The Hinchcliffe Affidavit

33. By reason of the Respondents' possession and consideration of the materials in the Hinchcliffe Affidavit, including in preparing and filing written submissions in the Supreme Court Proceeding on 7 July 2024 in express reliance on the Hinchcliffe Affidavit, they knew, and were aware at the time of publishing the Joint Media Statement:

(a) the fact that the Applicant had retained Dr Shuey in May 2024 to provide opinion evidence in the proceeding that was to be compliant with order 44 of the *Supreme Court (General Civil Procedure) Rules 2015*; and

(b) the information contained in the following documents that was relevant to the cause of the Collision and/or the thoroughness of the 2013 Police Investigation:

(i) the Applicant's medical records, including records from his hospitalisation on 7 January 2013, which recorded that:

(A) the Collision was described "*15-year-old car versus bike at 60kmp*" in hospital records.

(B) the Collision was described "*15 yo on bike. Struck on L side by car travelling 40 to 60 kmh…Pt onto bonnet then onto windscreen which cracked on impact…thrown onto roadway…helmet worn and not damaged. No [loss of consciousness]…Pt distressed post impact…"* in ambulance records.

(C) the Collision was described as "*15 yo male was riding his bike when he was struck by a ford territory on his left side, throwing him onto the bonnet and shattering the windscreen, car had apparently just turned from 80kmp road into side street when pt may have ridden in front of it*…" in ambulance records.

(D) the Applicant had sustained significant and serious injuries to the left-hand side of his body.

(E) the medical evidence supported the Applicant's version of the Collision, namely that he was hit front on by a vehicle travelling at speed.

(ii) documents released per a freedom of information requests made by the Applicant's then solicitors in 2013 (the **2013 FOI Documents**) which show that the Second Respondent was identified by her maiden name "Kesik" in the 2013 Police Investigation;

(iii) the 2017 FOI Documents, which included photographs of the SUV not included in the 2013 FOI Documents, showing the damage to the SUV (namely to the windscreen, bonnet and front bumper) was consistent with the Applicant's version of the Collision and contradicted the Respondents' public claims (including at the 2017 Press Conferences) that the Collision could be described as a "T-bone";

(iv) documents produced by Victoria Police pursuant to a subpoena issued in the Supreme Court Proceedings (**Vic Pol Release**), which showed that between the 2017 FOI Documents and the Vic Pol Release the code representing first impact had been altered from "Cross Traffic" to "From Footway";

(v) an extract of the documents produced by the TAC pursuant to a subpoena issued in the Supreme Court Proceedings **(TAC Release**), which recorded

details of the voluntary conference and that the liability assessment by the TAC was based on the Respondents' version of the Collision (e.g. that the Second Respondent turned right off a major road, travelled about 20 metres and then the Applicant came off a bush track into the side of her car and the Applicant was going too fast) and that the TAC sought a confidentiality clause was warranted due to public comments made by Peter Meuleman;

(vi) a covering letter detailing the production of Emergency Services Telecommunications Authority (**ESTA**) pursuant to a subpoena issued to it in the Supreme Court Proceedings and a copy of the ESTA call log (**ESTA Call Log**), which showed a delay of about 7 minutes between the Collision and the First Respondent calling 000, contradicting the First Respondent's claim in his statement to Police and in public comments that he called 000 "immediately";

(vii) other documents relevant to the merits of the Applicant's TAC Claim, including:

(A) the Applicant's application for a Serious Injury Certificate for his serious long-term impairment or loss of a body function to his abdomen and permanent serious disfigurement by reason of scarring to his abdomen, which included a copy of the Applicant's affidavit sworn on 12 March 2015 in which he detailed the injuries sustained as a result of the Collision, including removal of 90% of his spleen, punctured lung and psychological injuries;

(B) a letter from the TAC to the Applicant's then solicitors saying that the TAC had considered all the information in its possession and is satisfied that the Applicant's injury fell within the definition of 'serious injury' under s 93(17) of the *Transport Accident Act 1986* and that the degree of impairment is less than 30%; and

(C) a letter dated 4 May 2015 which confirms the Transport Accident Commission granting the Applicant a 'Serious Injury Certificate', which entitled Ryan to proceed with a common law action for damages, provided it can be established that the accident was the fault of another party;

(viii) a document prepared by Dr Shuey explaining why records sought by the Andrews Subpoenas would assist his review, including as to who was driving the SUV and what intervention (if any) had thwarted a normal thorough and professional investigation of a serious collision involving life threatening injuries; and

(ix) relevant sections of Victoria Police Manual (Policy) for fatal or life-threatening motor vehicle crash investigations, which outlined applicable procedures requiring that fatal and life-threatening injury collisions be notified immediately to the Major Collision Investigation Unit through Police Communications; and minimum procedures at a collision scene, which demonstrated, by contrast, that the 2013 Police Investigation had not proceeded per the standard procedures;

(c) the fact that information in the 2013 FOI Documents, 2017 FOI Documents and Vic Pol Release indicated that the 2013 Police Investigation did not demonstrate a comprehensive investigation, including because it:

(i) did not record an exact point of impact;

(ii) did not record the point of rest of the SUV or bicycle;

(iii) did not record the point at which the Applicant landed;

(iv) did not preserve the SUV for proper forensic examination;

(v) did not include high resolution scene photographs;

(vi) did not include the proper collection and separation of eye-witness testimony (including from the Applicant); and

(vii) did not include a PBT of either Respondent;

(d) the witness statements of Mr Morgan and Ms Crittenden, provided to the Respondents' solicitor by email dated 21 June 2024 and subsequently exhibited to Hinchcliffe Affidavit, the substance of which contradicted, or was capable of contradicting, the Respondents' account of the Collision (including the Respondents' claim to have moved from a stationary position when tyre squeals followed by an "almighty bang" were heard), its immediate aftermath (including the Respondents' claim to render immediate assistance to the Applicant) and called into question the thoroughness of the 2013 Police Investigation.

The Applicant's statement

34. The Applicant's account of the Collision, the substance of which contradicted or was capable of contradicting, the Respondents' account of the Collision and its immediate aftermath and called into question the thoroughness of the 2013 Police Investigation.

35. By reason of the Respondents' knowledge of the 2013 Police Investigation and their possession of the Applicant's statement, they knew, and were aware of at the time of publishing the Joint Media Statement, that the Applicant's evidence of events was, in substance:

(a) on 7 January 2013, just after 1.00 pm, he was involved in the Collision;

(b) at the time, he was 15 years old and was riding to his mother's house on a blue utility bicycle, wearing a helmet and a backpack, with a tool bag strapped to a rear rack;

(c) he was required to cross Ridley Street from the track or path along which he was travelling;

(d) he considered Ridley Street was dangerous to cross because vehicles turning right from Melbourne Road sometimes cut the corner and travelled around the turn

at speed;

(e) as he approached the bitumen of Ridley Street, he slowed because trees and bushes obstructed his full view until he was close to the road;

(f) when he reached a position close to Ridley Street, he looked to his left and right and saw no vehicles on the road;

(g) he did not come to a complete stop, but was travelling very slowly and placed his left foot on the gravel path to steady himself;

(h) he again looked left and right, moved the bicycle forward and commenced to cross the road;

(i) he had only just rolled over the kerb and both wheels of the bicycle were on the road when the vehicle struck him;

(j) when struck, he was still on the northern side of Ridley Street and did not see the vehicle until the moment immediately before impact, and then only in the corner of his eye for a split second;

(k) the impact threw him upwards and into the windscreen, which he smashed with his hip and shoulder;

(l) the vehicle must have been travelling at speed because it was not visible on Ridley Street when he began to cross and almost immediately thereafter struck his left side;

(m) he did not accept the account that the driver had lawfully turned from Melbourne Road after coming to a complete stop because, if that had occurred, he would have seen the vehicle and would not have ridden onto Ridley Street;

(n) the vehicle struck him full-on;

(o) he did not think the driver had applied the brakes before impact and did not hear any screeching of brakes;

(p) the force of the impact was massive;

(q) immediately after the impact, he was in extreme pain, was thrown upwards and forwards, and the vehicle continued underneath him and beyond the point at which he landed;

(r) he remembered spinning in the air, landing heavily on the road, screaming in pain, and being unable to get up, although he did not lose consciousness;

(s) he later learned that the majority of his injuries were to his left side, including cracked ribs, a punctured lung, a ruptured spleen and internal bleeding;

(t) while in hospital, he recalled doctors saying words to the effect that he would have

had to have been struck at about 45 to 50 kilometres per hour to suffer those injuries;

(u) after the Collision, he was left lying on the road alone for what felt to him like a considerable period of time;

(v) he then observed two adults from the SUV, now known to him to be the First Respondent and the Second Respondent, standing near him and yelling at each other;

(w) the Second Respondent was distressed and was yelling at the First Respondent to call an ambulance and neither the First Respondent nor the Second Respondent, in his recollection, did anything to assist him;

(x) a woman, now known to him to be Jane Crittenden, arrived shortly afterwards and put a towel under his head and held an umbrella over him;

(y) after the Applicant's sister arrived, Jane Crittenden and the Applicant's sister remained with him until ambulance officers loaded him into the ambulance;

(z) he did not recall the Second Respondent being present by that stage;

(aa) he was thereafter airlifted to the Royal Children's Hospital;

(bb) the event was horrific and traumatic;

(cc) he did not understand why the First Respondent and the Second Respondent did not seek to assist him;

(dd) he did not understand why it was later said that the Collision had been his fault and that he had caused it;

(ee) his position was that the Respondents cut the corner and hit him; and

(ff) when police later spoke to him after he had been discharged from hospital, they showed him photographs of the car and told him that he was at fault, did not ask him what had happened, did not leave him copies of the photographs, did not take from him a statement as to what had actually occurred on the day of the Collision, and no-one from Victoria Police has ever taken from him a statement about what truly occurred on that day.

36. The Applicant held, and continues to hold, a genuine and honest belief that the Collision occurred substantially in the manner described in his statement.

37. At the time of publishing the Joint Media Statement, the Respondents knew, by reason of their possession of the Applicant's statement, and by reason of the materials exhibited to the Hinchliffe Affidavit and relied upon in the Subpoena Hearing and the other matters below, that the Applicant had a genuine and honest basis for holding his beliefs.

The Respondents did not produce any records pursuant to the Andrews Subpoenas

38. On 25 June 2024, the Applicant proposed a revised schedule of documents sought by the Andrews Subpoenas, limiting it to, in substance:

    (a) All phone records, emails and text records made by the Respondents or received by the Respondents on 7 January 2013 relating to the Collision.

    (b) Copies of all credit and debit card payments made by the Respondents on 7 January 2013.

    (c) All video images and photographs concerning the Collision.

39. The Respondents did not produce and/or were not able to produce any records requested by the Andrews Subpoenas. Accordingly, they knew, and were aware of at the time of publishing the Joint Media Statement, that there had been no production by them of any documents, that:

    (a) contradicted, or tended to contradict the Applicant's version of events of the Collision or the preliminary opinions that Dr Shuey's had expressed in relation to the cause of the Collision or the deficiencies in the 2013 Police Investigation of it; and

    (b) answered the questions which Dr Shuey had raised in the lead up to the Subpoena Hearing, which underpinned the legitimate forensic purpose the Applicant had argued justified the issuing of the Andrews Subpoenas, that were not set aside.

Dr Shuey's credentials

40. By reason of the Applicant's submissions for the Subpoena Hearing, the letter from Dr Shuey contained in the Hinchliffe Affidavit, the contents of the Herald Sun Articles, and the First Respondent's political position, the Respondents knew, and were aware of at the time of publishing the Joint Media Statement that:

    (a) Dr Raymond Neil Shuey AM was a former Victoria Police officer of very senior rank, including Assistant Commissioner for Traffic and Operations Support and, on occasions, Acting Deputy Commissioner, with responsibility for traffic enforcement, road safety, collision investigation, the Major Collision Investigation Unit, breath-testing operations, training and supervision;

    (b) Dr Shuey had been retained by the Applicant as a police investigations expert in the Supreme Court Proceedings;

    (c) Dr Shuey was highly experienced, reputable and well qualified to express expert opinions on road policing, crash investigation, and police investigative standards, having 41 years' experience in Victoria Police, followed by some 20 years specialising in international road safety and crash investigation;

    (d) Dr Shuey held a PhD in International Road Safety and Road Policing, had formal Victoria Police qualifications in collision investigation and vehicle examination, and

had authored manuals, guidelines, publications and research papers concerning crash investigation and road safety;

(e) Dr Shuey had been made a Member of the Order of Australia in 2022 for significant service to road safety organisations and initiatives;

41. Accordingly, at the time of publishing the Joint Media Statement, the Respondents knew that Dr Shuey was a well-credentialled, experienced and recognised expert whose opinions on crash investigation and police investigative practice were capable of being taken seriously and could not honestly be dismissed as uninformed or fanciful, or would, at the very least, have been likely respected and believed by the Applicant and his family.

The Herald Sun Articles

42. On or about 17 September 2024, the Herald Sun published the Herald Sun Articles, which, amongst other things, reported upon the Shuey Report, its contents, and Dr Shuey's opinions.

43. In particular, the Herald Sun Articles reported that:

(a) the Applicant's family (sic) was suing Slater and Gordon, accusing it of failing to have conducted a full and proper investigation into the circumstances of the Collision and negligence in the course of negotiating the TAC settlement on behalf of the Applicant;

(b) Dr Shuey, a former Assistant Commissioner of Victoria Police, had reviewed FOI documents, witness statements and reconstruction material and had concluded, amongst other things, that:

(i) the 2013 Police Investigation was deeply flawed, unfounded and contrary to the available evidence;

(ii) the 2013 Police Investigation was negligent and not consistent with competent professional practice;

(iii) the Respondents' account of the Collision was improbable and implausible;

(iv) the most probable scenario was that the SUV undertook a sweep turn at speed, cut the corner, remained on the incorrect side of the roadway and struck the Applicant;

(v) the impact speed was likely to have been in the range of 40 km/h to 50 km/h;

(vi) relevant Victoria Police material had been withheld from the Applicant's lawyers;

(vii) the surrounding records disclosed matters said to support concern as to the adequacy and integrity of the 2013 Police Investigation.

Publication of the Joint Media Statement infected by malice

44. By virtue of their relationship and joint interest in the subject matter of this proceeding, it may be inferred that the Respondents conveyed information they knew or learned of the above kind to the other, and therefore had knowledge of all the matters known to the other Respondent.

45. By reason of the matters particularised at paragraphs 1 to 35 above, the Respondents knew, or were squarely put on notice, before publication of the Joint Media Statement that the Applicant had proper grounds for inquiry into the cause of the Collision, the adequacy of the investigations into the Collision, and the Applicant's claims in the Supreme Court Proceeding against Slater and Gordon.

46. The Respondents have not, at any time, attempted to contact the Applicant or his family to discuss the Collision, the 2013 Police Investigation or any of the Applicant's genuine, honest and reasonable complaints despite having knowledge and opportunity (including by way of the Concerns Notice issued by the Applicant's lawyers).

47. The Respondents also knew that:

    (a) the Herald Sun Articles reported allegations that were said to arise from expert analysis of, and to be supported by, witness statements, official records, police materials, and FOI materials;

    (b) the allegations so reported were not allegations presented as invented, fanciful or baseless nor were they honestly capable of being dismissed as "appalling conspiracy theories".

48. On 17 September 2024, notwithstanding that knowledge, the Respondents caused the Joint Media Statement to be published.