NOTICE OF FILING

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	30/10/2026 9:47:45 AM AEDT
Date Accepted for Filing:	30/10/2026 9:47:46 AM AEDT
File Number:	NSD951/2025
File Title:	JOSEPH TOLTZ & ORS v JOHN KEANE & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



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.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 59
Rule 29.02(1)

Affidavit

No. NSD950 of 2025

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

Joseph Toltz and others
Applicants

Nick Riemer and another
Respondents

Affidavit of: **Michael David Bradley**
Address: Level 4, 343 George Street, Sydney NSW 2000
Occupation: Managing Partner
Date: 29 October 2026

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1	Affidavit of Michael David Bradley affirmed on 29 October 2026.		1
2	Annexure "MDB-1", being copy of email from Ms Luca Pearce to Mr Hamish Rotstein sent on 19 October 2026 attaching orders made on 28 September 2026.	[4]	4
3	Annexure "MDB-2", being copy of email from Ms Luca Pearce to Mr Hamish Rotstein sent on 20 October 2026 attaching letter from Marque Lawyers dated 20 October 2026.	[6]	12

Filed on behalf of (name & role of party) Nick Riemer, First Respondent
Prepared by (name of person/lawyer) Michael Bradley
Law firm (if applicable) Marque Lawyers
Tel (02) 8216 3000 Fax
Email michaelb@marquelawyers.com.au; laureng@marquelawyers.com.au; lucap@marquelawyers.com.au
Address for service Level 4, 343 George St, Sydney NSW 2000

[Version 3 form approved 02/05/2019]

Document number	Details	Paragraph	Page
3	Annexure "MDB-3", being copy of email from Mr Rotstein to Mr Bradley sent on 29 October 2026.	[11]	15
4	Annexure "MDB-4", being copy of email from Ms Pearce to Mr Rotstein sent on 29 October 2026.	[12]	21

I Michael David Bradley affirm:

1. I am the Managing Partner of the firm Marque Lawyers, solicitors for the First Respondent. I am authorised to make this affidavit on the First Respondent's behalf in relation to the case management hearing listed in these proceedings on 30 October 2026 at 9:30am.

2. At the case management hearing held on 28 September 2026, orders were made requiring the Applicants to file and serve any interlocutory application concerning the defences filed by the First and Second Respondents by 4:00pm on 16 October 2026.

3. On 16 October 2026 by 4:00pm, I had not received any correspondence from the Applicants' solicitors attaching any interlocutory application.

4. On 19 October 2026, I was copied to an email from Ms Luca Pearce, solicitor at Marque Lawyers to Mr Hamish Rotstein of Rotstein Commercial Lawyers, and attached the orders made on 28 September 2026. A copy of Ms Pearce's email and the orders made on 28 September 2026 is annexed to this affidavit at **pages 4 – 11** and marked **Annexure MDB-1**.

5. On 19 October 2026, I had not received any correspondence from Mr Rotstein in response to Ms Pearce's email sent on 19 October 2026.

6. On 20 October 2026, I was copied to a further email from Ms Pearce to Mr Rotstein, attaching a letter from Marque Lawyers. A copy of Ms Pearce's email and letter from Marque Lawyers is annexed to this affidavit at **pages 12 - 14** and marked **Annexure MDB-2.**

7. On 20 October 2026 by 5:00pm, I had not received any correspondence from Mr Rostein in response to Ms Pearce's email sent on 20 October 2026 and letter from Marque Lawyers dated 20 October 2026.

8. On 20 October 2026 at 5:00pm, I instructed Ms Pearce to attempt to contact Mr Rotstein via phone. I was informed by Ms Pearce that she called the publicly available phone number for Mr Rotstein's firm, and no one answered the call.

9. On 20 October 2026 at 5:00pm, I instructed Ms Pearce to send an email to the Associate to his Honour Justice Kennett seeking to re-list this proceeding for case management.

10. On 21 October 2026, I received an email from the Associate to his Honour Justice Kennett advising that this proceeding has been listed for case management on 30 October 2026 at 9:30am.

11. On 29 October 2026, I received an email from Mr Rotstein. A copy of this email and the Applicant's attached proposed orders is annexed to this affidavit at **page 15 – 20** and marked **Annexure MDB-3**.

12. On 29 October 2026, I was copied to an email sent by Ms Pearce to Mr Rotstein in response to Mr Rotstein's email from earlier that day. A copy of this email is annexed to this affidavit at **page 21 – 22** and marked **Annexure MDB-4**.

Affirmed by the deponent)
at Sydney)
in New South Wales)
on 29 October 2026)
Before me:)

Signature of deponent

Signature of witness
Luca Pearce
Solicitor
Marque Lawyers
Level 4, 343 George St
Sydney NSW 2000

Rule 29.02(8)

Certificate identifying annexure

No. NSD950 of 2025

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

Joseph Toltz and others
Applicants

Nick Riemer and another
Respondents

Affidavit of:	**Michael David Bradley**
Address:	Level 4, 343 George Street, Sydney NSW 2000
Occupation:	Managing Partner
Date:	29 October 2026

Annexure "MDB-1"

This is the annexure marked "MDB-1" to the affidavit of Michael David Bradley affirmed before me on 29 October 2026.



.....

Signature of Witness

Luca Pearce

From:	Luca Pearce
Sent:	Monday, 19 October 2026 11:47 AM
To:	Hamish Rotstein
Cc:	Michael Bradley; Lauren Gasparini; Stephen Woodbury; Julie Mills; Helena Kastrissios
Subject:	RE: NSD950/2025 JOSEPH TOLTZ & ORS v NICK RIEMER & ANOR and NSD951/2025 JOSEPH TOLTZ & ORS v JOHN KEANE & ANOR [Marque-DOCUMENTS.FID137337]
Attachments:	20260928 - NSD950_2025 - Orders of Kennett J(4862541.1).pdf; 20260928 - NSD951_2025 - Orders of Kennett J(4862549.1).pdf

Dear Hamish

We refer to the ***attached*** orders dated 28 September 2026 in both proceedings.

Order 2 required your clients to file and serve any interlocutory applications by 4:00pm on 16 October 2026. No applications have been filed and your clients have not sought an extension of time. Accordingly, we understand that your clients no longer intend to file interlocutory applications.

In the circumstances, please advise as to whether your clients are in the process of filing Replies and whether the parties need to jointly approach the Court for a case management hearing in relation to next steps.

Kind regards,
Luca

Luca Pearce
Lawyer
MARQUE Lawyers Pty Ltd
P: +612 8216 3048
Gadigal Country, Level 4, 343 George Street Sydney 2000
marquelawyers.com.au / LinkedIn / Bluesky / Instagram
We do not disclaim anything about this email. We're quite proud of it, really.

Federal Court of Australia

District Registry: New South Wales Registry

Division: General

No: NSD950/2025

JOSEPH TOLTZ and others named in the schedule
Applicants

NICK RIEMER and another named in the schedule
Respondents

ORDER

JUDGE: Justice Kennett

DATE OF ORDER: 28 September 2026

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Order 3 of the orders made on 17 August 2026 be varied so that the time for the applicants to file any reply is extended to a date to be fixed by further order.

2. The applicants file and serve any interlocutory application concerning the defences filed by the first respondent on 21 August 2026 and by the second respondent on 4 September 2026 by 4:00pm on 16 October 2026.

3. In the event that an interlocutory application is filed as referred to in order 2 of these orders, the applicants are to file evidence and submissions on that application by 30 October 2026.

4. The respondents are to file responsive submissions and any evidence on which they rely by 18 November 2026.

5. The applicants are to file any submissions in reply by 2 December 2026.

6. The interlocutory application will be listed for hearing for 10:15am on 8 December 2026.

7. Costs reserved.

8. Liberty to apply.

Date orders authenticated: 28 September 2026

Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

Schedule

No: NSD950/2025

Federal Court of Australia

District Registry: New South Wales Registry

Division: General

Second Applicant	SUZANNE RUTLAND
Third Applicant	ARIEL EISNER
Fourth Applicant	YANIV LEVY
Second Respondent	THE UNIVERSITY OF SYDNEY

Federal Court of Australia

District Registry: New South Wales Registry

Division: General

No: NSD951/2025

JOSEPH TOLTZ and others named in the schedule
Applicants

JOHN KEANE and another named in the schedule
Respondents

ORDER

JUDGE: Justice Kennett

DATE OF ORDER: 28 September 2026

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Order 3 of the orders made on 17 August 2026 be varied so that the time for the applicants to file any reply is extended to a date to be fixed by further order.

2. The applicants file and serve any interlocutory application concerning the defences filed by the first respondent on 21 August 2026 and by the second respondent on 4 September 2026 by 4:00pm on 16 October 2026.

3. In the event that an interlocutory application is filed as referred to in order 2 of these orders, the applicants are to file evidence and submissions on that application by 30 October 2026.

4. The respondents are to file responsive submissions and any evidence on which they rely by 18 November 2026.

5. The applicants are to file any submissions in reply by 2 December 2026.

6. The interlocutory application will be listed for hearing for 10:15am on 8 December 2026.

7. Costs reserved.

8. Liberty to apply.

Date orders authenticated: 28 September 2026

Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

Schedule

No: NSD951/2025

Federal Court of Australia
District Registry: New South Wales Registry
Division: General

Second Applicant	SUZANNE RUTLAND OAM
Third Applicant	ARIEL EISNER
Fourth Applicant	YANIV LEVY
Fifth Applicant	LIONEL BABICZ
Sixth Applicant	YULIA BERLIN-FIRER
Seventh Applicant	DAVID CELERMAJER AO
Eighth Applicant	ILAN DAR-NIMROD
Ninth Applicant	JENNIFER DOWLING
Tenth Applicant	YONA GILEAD
Eleventh Applicant	JUDY KAY
Twelfth Applicant	GUSTAV LEHRER FAA AM
Thirteenth Applicant	GUY MAYRAZ
Fourteenth Applicant	PETER MORGAN
Fifteenth Applicant	LOREN MOWSZOWSKI
Sixteenth Applicant	LYNNE SWARTS
Second Respondent	THE UNIVERSITY OF SYDNEY

Rule 29.02(8)

Certificate identifying annexure

No. NSD950 of 2025

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

Joseph Toltz and others
Applicants

Nick Riemer and another
Respondents

Affidavit of:	**Michael David Bradley**
Address:	Level 4, 343 George Street, Sydney NSW 2000
Occupation:	Managing Partner
Date:	29 October 2026

Annexure "MDB- 2"

This is the annexure marked "MDB-2" to the affidavit of Michael David Bradley affirmed before me on 29 October 2026.



.....

Signature of Witness

Luca Pearce

From: Luca Pearce
Sent: Tuesday, 20 October 2026 3:18 PM
To: 'Hamish Rotstein'
Cc: Michael Bradley; Lauren Gasparini; 'Stephen Woodbury'; 'Julie Mills'; 'Helena Kastrissios'
Subject: RE: NSD950/2025 JOSEPH TOLTZ & ORS v NICK RIEMER & ANOR and NSD951/2025 JOSEPH TOLTZ & ORS v JOHN KEANE & ANOR [Marque-DOCUMENTS.FID137337]
Attachments: 2026 10 20 Letter to Rosteins re Interlocutory Application(4873378.1).pdf

Dear Hamish

We refer to our below email and ***attached*** letter of even date.

Kind regards,
Luca

Luca Pearce
Lawyer
MARQUE Lawyers Pty Ltd
P: +612 8216 3048
Gadigal Country, Level 4, 343 George Street Sydney 2000
marquelawyers.com.au / LinkedIn / Bluesky / Instagram
We do not disclaim anything about this email. We're quite proud of it, really.

From: Luca Pearce
Sent: Monday, 19 October 2026 11:47 AM
To: Hamish Rotstein <hamish@rotsteins.com.au>
Cc: Michael Bradley <michaelb@marquelawyers.com.au>; Lauren Gasparini <laureng@marquelawyers.com.au>; Stephen Woodbury <stephen.woodbury@ashurstperkins.com>; Julie Mills <julie.mills@ashurstperkins.com>; Helena Kastrissios <helena.kastrissios@ashurstperkins.com>
Subject: RE: NSD950/2025 JOSEPH TOLTZ & ORS v NICK RIEMER & ANOR and NSD951/2025 JOSEPH TOLTZ & ORS v JOHN KEANE & ANOR [Marque-DOCUMENTS.FID137337]

Dear Hamish

We refer to the ***attached*** orders dated 28 September 2026 in both proceedings.

Order 2 required your clients to file and serve any interlocutory applications by 4:00pm on 16 October 2026. No applications have been filed and your clients have not sought an extension of time. Accordingly, we understand that your clients no longer intend to file interlocutory applications.

In the circumstances, please advise as to whether your clients are in the process of filing Replies and whether the parties need to jointly approach the Court for a case management hearing in relation to next steps.

Kind regards,
Luca

Luca Pearce
Lawyer
MARQUE Lawyers Pty Ltd
P: +612 8216 3048
Gadigal Country, Level 4, 343 George Street Sydney 2000
marquelawyers.com.au / LinkedIn / Bluesky / Instagram
We do not disclaim anything about this email. We're quite proud of it, really.

MARQUE

Our reference	MB:15012
Phone	+612 8216 3006
Email	michaelb@marquelawyers.com.au
Your reference	HR:250382

20 October 2026

Hamish Rotstein | Managing Principle
Rotstein Commercial Lawyers
490/488 Bourke St
Melbourne VIC 3000

By email: hamish@rotsteins.com.au

Dear Mr Rotstein

Toltz & Ors v Riemer; Toltz & Ors v Keane

1. We refer to our email dated 19 October 2026 noting that your clients had failed to file any interlocutory applications in accordance with order 2 of the orders made on 28 September 2026 and confirm we have not received a response.

2. Further to our email which requested confirmation that your clients were in the process of filing Replies, for completeness, we wish to draw your clients' attention to rule 16.12 of the *Federal Court Rules 2011* (Cth) (FCR).

3. As pleadings have now closed pursuant to this rule (with your clients' Replies having been due within 14 days of service of our clients' defences pursuant to rule 16.33 of the FCR), your clients are required to seek leave of the Court to file any Reply.

4. The First Respondents put your clients on notice that if you do not provide a response to this letter by **5:00pm today**, we intend write to the Court seeking an urgent relisting of the matter and for the matter to be case managed in advance of 8 December 2026.

Yours sincerely

Michael Bradley
Managing Partner

4873316v1

Rule 29.02(8)

Certificate identifying annexure

No. NSD950 of 2025

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

Joseph Toltz and others
Applicants

Nick Riemer and another
Respondents

Affidavit of:	**Michael David Bradley**
Address:	Level 4, 343 George Street, Sydney NSW 2000
Occupation:	Managing Partner
Date:	29 October 2026

Annexure "MDB-3"

This is the annexure marked "MDB-3" to the affidavit of Michael David Bradley affirmed before me on 29 October 2026.



.....

Signature of Witness

Luca Pearce

From:	Hamish Rotstein <hamish@rotsteins.com.au>
Sent:	Thursday, 29 October 2026 1:36 PM
To:	Michael Bradley; Luca Pearce; Lauren Gasparini; Stephen Woodbury; Julie Mills; Helena Kastrissios
Subject:	RE: NSD950/2025 JOSEPH TOLTZ & ORS v NICK RIEMER & ANOR and NSD951/2025 JOSEPH TOLTZ & ORS v JOHN KEANE & ANOR
Attachments:	2026.10.29 - Minute of Proposed Orders - NSD 951 of 2025.docx; 2026.10.29 - Minute of Proposed Orders - NSD 950 of 2025.docx

Dear Colleagues,

We write concerning the directions hearing listed before Kennett J at 9.30 am tomorrow in the above proceedings.

Due to difficulties in finalising arrangements for counsel to undertake the proposed interlocutory applications and supporting submissions, counsel was not in a position to progress that work until Tuesday afternoon, 27 October 2026.

In those circumstances, we propose a short variation of the orders made on 28 September 2026, providing for the applicants to file and serve their interlocutory applications, supporting evidence and submissions by 4.00 pm on Friday, 6 November 2026, the respondents to file and serve their responsive material by 20 November 2026, and the applicants' submissions in reply by 2 December 2026.

Importantly, the hearing listed for 8 December 2026 would remain undisturbed.

We **attach** proposed consent orders for each proceeding.

We consider that the proposed timetable is reasonable and would avoid the need for a contested directions hearing tomorrow. If agreed, we propose approaching the Court jointly to request that the orders be made on the papers and tomorrow's directions hearing be vacated.

Given the timing, we would appreciate confirmation of your clients' positions **by 8.00 am tomorrow**, or earlier if possible.

Kind regards,

Hamish Rotstein
Managing Principal
Rotstein Commercial Lawyers
Ph: +61 3 9604 7888

www.rotsteins.com.au

Federal Court of Australia
District Registry: New South Wales Registry
Division: General

No. NSD 950 of 2025

JOSEPH TOLTZ and others named in the Schedule
Applicants

NICK RIEMER and another named in the Schedule
Respondents

JUDGE: Justice Kennett
DATE OF ORDER:
WHERE MADE: Sydney

MINUTE OF PROPOSED ORDERS

THE COURT ORDERS THAT:

1. Order 2 of 28 September 2026 be varied by extending the time for the applicants to file and serve any interlocutory application concerning the defences filed by the first respondent on 21 August 2026 and by the second respondent on 4 September 2026 to 4:00pm on 6 November 2026.
2. Order 3 of 28 September 2026 be varied by extending the time for the applicants to file evidence and submissions on that application to 6 November 2026.
3. Order 4 of 28 September 2026 be varied by extending the time for the respondents to file responsive submissions and any evidence on which they rely to 20 November 2026.
4. All other orders made on 28 September 2026 remain undisturbed.

Schedule

Federal Court of Australia No. NSD 950 of 2025

District Registry: New South Wales Registry

Division: General

Second Applicant	SUZANNE RUTLAND
Third Applicant	ARIEL EISNER
Fourth Applicant	YANIV LEVY
Second Respondent	THE UNIVERSITY OF SYDNEY

Federal Court of Australia No. NSD 951 of 2025

District Registry: New South Wales Registry

Division: General

JOSEPH TOLTZ and others named in the Schedule

Applicants

JOHN KEANE and another named in the Schedule

Respondents

JUDGE: Justice Kennett

DATE OF ORDER:

WHERE MADE: Sydney

MINUTE OF PROPOSED ORDERS

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2. Order 3 of 28 September 2026 be varied by extending the time for the applicants to file evidence and submissions on that application to 6 November 2026.
3. Order 4 of 28 September 2026 be varied by extending the time for the respondents to file responsive submissions and any evidence on which they rely to 20 November 2026.
4. All other orders made on 28 September 2026 remain undisturbed.

Schedule

Federal Court of Australia No. NSD 951 of 2025

District Registry: New South Wales Registry

Division: General

Second Applicant	SUZANNE RUTLAND
Third Applicant	ARIEL EISNER
Fourth Applicant	YANIV LEVY
Second Respondent	THE UNIVERSITY OF SYDNEY

Rule 29.02(8)

Certificate identifying annexure

No. NSD950 of 2025

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

Joseph Toltz and others
Applicants

Nick Riemer and another
Respondents

Affidavit of:	**Michael David Bradley**
Address:	Level 4, 343 George Street, Sydney NSW 2000
Occupation:	Managing Partner
Date:	29 October 2026

Annexure "MDB-4"

This is the annexure marked "MDB-4" to the affidavit of Michael David Bradley affirmed before me on 29 October 2026.



.....

Signature of Witness

Luca Pearce

From: Luca Pearce
Sent: Thursday, 29 October 2026 4:54 PM
To: Hamish Rotstein
Cc: Michael Bradley; Lauren Gasparini; Woodbury, Stephen; Mills, Julie; Kastrissios, Helena
Subject: RE: NSD950/2025 JOSEPH TOLTZ & ORS v NICK RIEMER & ANOR and NSD951/2025 JOSEPH TOLTZ & ORS v JOHN KEANE & ANOR [Marque-DOCUMENTS.FID124631]

Dear Hamish

We refer to your below email and note you have not provided a substantial reason for failing to comply with order 2 of the orders made on 28 September 2026. We also note you have not explained why no attempt was made to seek an extension of time or respond to our attempts to contact you about this issue.

The First Respondents do not consent to your proposed orders nor your proposal to vacate the case management hearing on Friday, 30 October 2026 at 9:30am.

Kind regards,
Luca

Luca Pearce
Lawyer
MARQUE Lawyers Pty Ltd
P: +612 8216 3048
Gadigal Country, Level 4, 343 George Street Sydney 2000
marquelawyers.com.au / LinkedIn / Bluesky / Instagram
We do not disclaim anything about this email. We're quite proud of it, really.

From: Hamish Rotstein <hamish@rotsteins.com.au>
Sent: Thursday, 29 October 2026 1:36 PM
To: Michael Bradley <michaelb@marquelawyers.com.au>; Luca Pearce <lucap@marquelawyers.com.au>; Lauren Gasparini <laureng@marquelawyers.com.au>; Stephen Woodbury <stephen.woodbury@ashurstperkins.com>; Julie Mills <julie.mills@ashurstperkins.com>; Helena Kastrissios <helena.kastrissios@ashurstperkins.com>
Subject: RE: NSD950/2025 JOSEPH TOLTZ & ORS v NICK RIEMER & ANOR and NSD951/2025 JOSEPH TOLTZ & ORS v JOHN KEANE & ANOR

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