

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:	27/06/2026 9:21:54 AM AEST
Date Accepted for Filing:	29/06/2026 9:43:50 AM AEST
File Number:	NSD951/2025
File Title:	JOSEPH TOLTZ & ORS v JOHN KEANE & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "Sia Lagos".

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. NSD951 of 2025

Federal Court of Australia
District Registry: NSW
Division: Human Rights

Joseph Toltz and others
Applicants

John Keane and another
Respondents

Affidavit of: **Upekha Suweni Wedage**
Address: Suite 409, 488 Bourke Street, Melbourne VIC 3000
Occupation: Solicitor
Date: 27 June 2026

Document No	Details	Paragraph	Pages
1	Affidavit of Upekha Suweni Wedage affirmed on 27 June 2026		1
2	Annexure "USW-7", being the email from Upekha Wedage to the solicitors of Marque Lawyers and Ashurst at 2.21pm dated 26 June 2026	6	6 - 8
3	Annexure "USW-8", being the email from Ms Luca Pearce of Marque Lawyers to Upekha Wedage at 3.08pm dated 26 June 2026.	7	10

I, Upekha Suweni Wedage of Suite 409, 488 Bourke Street, Melbourne VIC 3000, Solicitor at Rotstein Commercial Lawyers, affirm:

1. I am an Associate of the firm Rotstein Commercial Lawyers, the solicitors for the Applicants.

2. The facts deposed to in this affidavit are within my own knowledge except where otherwise stated. Where stated to be based on information or belief, I believe them to be true.
3. I make this affidavit in connection with the Case Management Hearing listed in this Proceeding on Monday, 29 June 2026.
4. I note that an Affidavit sworn by Mr Michael David Bradley, of Marque Lawyers, the solicitors for the First Respondent was filed with the Court on 26 June 2026.
5. This Affidavit only refers to correspondence between the parties which have not been referred to in Mr Bradley's above mentioned Affidavit.
6. On 26 June 2026 at 2.21pm, I sent an email to the legal representatives of the First and Second Respondents attaching copies of the proposed minute of consent orders for their consideration with a view of avoiding an appearance at the Case Management Hearing. A copy of my email to the parties is attached as Exhibit "**UW-7**".
7. At 3.08pm on 26 June 2026, I received an email from Ms Luca Pearce, solicitor for the First Respondent confirming that the First Respondent does not agree to the Applicants' proposed consent orders. A copy of Ms Pearce's email is attached as Exhibit "**UW-8**".

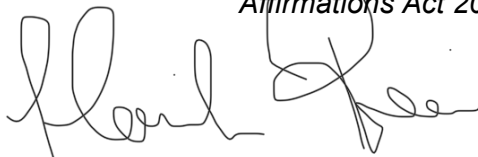
AFFIRMED at
Melbourne in the State
of Victoria on this 27th
day of June 2026



UPEKHA SUWANI WEDAGE

Who states that their signature was made to this affidavit by electronic means in accordance with Part 3 of the Oaths and Affirmations Act 2018 (Vic).

Before me:



HAMISH ROTSTEIN

of Suite 409, 488 Bourke Street, Melbourne VIC 3000
Australian Legal Practitioner within the meaning of the
Legal Profession Uniform Law (Victoria)

A person authorised under section 19(1) of the Oaths and Affirmations Act 2018 to take an affidavit.

Who states that their signature was made to this affidavit by electronic means, the witnessing of the execution of this document was done by audio-visual link and all the requirements of Part 3 of the Oaths and Affirmations Act 2018 (Vic).

I also observe the following:

HAMISH ROTSTEIN signed and initialed this affidavit by electronic means and not by hand/handwriting.

HAMISH ROTSTEIN has affirmed this affidavit in my presence by audio-visual link.

This affidavit that I am signing in my capacity as an authorised affidavit taker is an electronic copy, not an original.



Schedule of Parties

Applicants

Second Applicant:	Suzanne Rutland OAM
Third Applicant:	Ariel Eisner
Fourth Applicant	Yaniv Levy

Respondents

Second Respondent:	The University of Sydney
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Federal Court of Australia
District Registry: NSW
Division: Human Rights

Joseph Toltz and others

Applicants

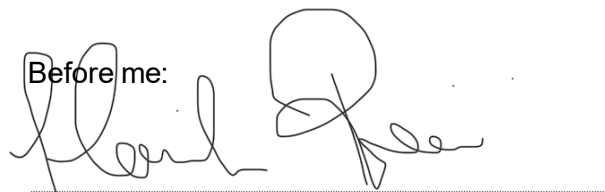
John Keane and another

Respondents

Affidavit of: **Upekha Suweni Wedage**
Address: Suite 409, 488 Bourke Street, Melbourne VIC 3000
Occupation: Solicitor
Date: 26 June 2026

Certificate identifying Exhibit

This is the Certificate identifying Exhibit "USW-7" annexed to the Affidavit of Upekha Suweni Wedage dated 27 June 2026

Before me: 

HAMISH ROTSTEIN

of Suite 409, 488 Bourke Street, Melbourne VIC 3000
Australian Legal Practitioner within the meaning of the
Legal Profession Uniform Law (Victoria)

A person authorised under section 19(1) of the Oaths
and Affirmations Act 2018 to take an affidavit.

*Who states that their signature was made to this
affidavit by electronic means, the witnessing of the
execution of this document was done by audio-visual
link and all the requirements of Part 3 of the Oaths
and Affirmations Act 2018 (Vic).*

Date: 27 June 2026

Upekha Wedage

From: Upekha Wedage
Sent: Friday, 26 June 2026 2:21 PM
To: Luca Pearce; Michael Bradley; Lauren Gasparini; Hamish Rotstein; erina.higgins@ashurst.com; Julie.Mills@ashurst.com; Stephen.Woodbury@ashurst.com
Subject: RE: NSD950/2025 and NSD951/2025 [Marque-DOCUMENTS.FID124631] [SEC=OFFICIAL]
Attachments: 2026.06.26 - Minute of Proposed Consent Orders - NSD 950 of 2025.docx; 2026.06.26 - Minute of Proposed Consent Orders - NSD 951 of 2025.docx

Dear Colleagues,

Please see **attached** copies of the proposed minute of consent orders for the parties' consideration ahead of the case management hearing.

Kind regards,

Upekha Wedage
Associate
LPN 5515129



Member of Consulegis, an international network of law firms

A Suite 409, 488 Bourke Street, Melbourne, VIC 3000
T (61 3) 9604 7888

Disclaimer: This email and any attachments are confidential and may be legally privileged (and neither is waived by mistaken delivery). It is intended for the addressee only. Please notify us if you received it in error, and remove both emails. Our liability in connection with transmitting this message and its attachments, is limited to re-supply. Liability limited by a scheme approved under Professional Standards Legislation

From: Associate Kennett J <Associate.KennettJ@fedcourt.gov.au>
Sent: Monday, 22 June 2026 3:41 PM
To: Luca Pearce <lucep@marquelawyers.com.au>; Michael Bradley <michaelb@marquelawyers.com.au>; Lauren Gasparini <laureng@marquelawyers.com.au>; Upekha Wedage <upekha.wedage@rotsteins.com.au>; Hamish Rotstein <hamish@rotsteins.com.au>; erina.higgins@ashurst.com; Julie.Mills@ashurst.com; Stephen.Woodbury@ashurst.com
Cc: nsd9502025@fedcourt.gov.au; nsd9512025@fedcourt.gov.au
Subject: RE: NSD950/2025 and NSD951/2025 [Marque-DOCUMENTS.FID124631] [SEC=OFFICIAL]

OFFICIAL

Dear practitioners

Justice Kennett has listed the proceedings for case management on **29 June 2026 at 2:15pm AEDT**. Chambers would be grateful if parties could provide appearances and any short minutes of order by **12:00pm on 28 June 2026**.

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 CONSENT ORDERS

THE COURT ORDERS BY CONSENT THAT:

1. The Applicants have leave to file an application to file and serve an Amended Statement of Claim by 4:00pm on 3 July 2026 (**Application**).
2. The Applicants file and serve any submissions in support of the Application limited to 5 pages by 4:00pm on 10 July 2026.
3. The Respondents file and serve any submissions in response limited to 5 pages by 4:00pm on 17 July 2026.
4. The Application is to be determined on the papers in the absence of the parties.
5. The proceeding be listed for directions on a date not before the determination of the Application.
6. Costs reserved.
7. Liberty to apply.

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 LAVY

Second Respondent THE UNIVERSITY OF SYDNEY

Federal Court of Australia
District Registry: NSW
Division: Human Rights

Joseph Toltz and others
Applicants

John Keane and another
Respondents

Affidavit of: **Upekha Suweni Wedage**
Address: Suite 409, 488 Bourke Street, Melbourne VIC 3000
Occupation: Solicitor
Date: 23 December 2025

Certificate identifying Exhibit

This is the Certificate identifying Exhibit "USW-8" annexed to the Affidavit of Upekha Suweni Wedage dated 26 June 2026

Before me: 

HAMISH ROTSTEIN

of Suite 409, 488 Bourke Street, Melbourne VIC 3000
Australian Legal Practitioner within the meaning of the
Legal Profession Uniform Law (Victoria)

A person authorised under section 19(1) of the Oaths
and Affirmations Act 2018 to take an affidavit.

*Who states that their signature was made to this
affidavit by electronic means, the witnessing of the
execution of this document was done by audio-visual
link and all the requirements of Part 3 of the Oaths
and Affirmations Act 2018 (Vic).*

Date: 27 June 2026

Upekha Wedage

From: Luca Pearce <luca@marquelawyers.com.au>
Sent: Friday, 26 June 2026 3:07 PM
To: Upekha Wedage
Cc: Michael Bradley; Lauren Gasparini; Hamish Rotstein; erina.higgins@ashurst.com; Julie.Mills@ashurst.com; Stephen.Woodbury@ashurst.com
Subject: RE: NSD950/2025 and NSD951/2025 [SEC=OFFICIAL] [Marque-DOCUMENTS.FID124631]
Attachments: 2026 06 25 First Respondent's short minutes of order (Riemer)(4804974.1).docx; Annexure A (Riemer).pdf; 2026 06 25 First Respondent's short minutes of order (Keane) (4805080.1).docx; Annexure A (Keane).pdf

Dear Upekha

The First Respondents do not consent to your clients' proposed orders.

As previously advised, the First Respondents will seek orders during Monday's directions hearing that your clients file amended pleadings in accordance with the orders made on 26 May 2026 and the leave already granted. Please find **attached** a copy of our clients' proposed orders, which we will provide to the Associate this afternoon.

For the avoidance of doubt, our clients will object to any application for costs in respect of Monday's directions hearing particularly given the costs of Monday's hearing will be incurred as a result of your clients' failure to comply with the 26 May 2026 orders.

Kind regards
Luca

From: Upekha Wedage <upekha.wedage@rotsteins.com.au>
Sent: Friday, 26 June 2026 2:24 PM
To: Luca Pearce <luca@marquelawyers.com.au>; Michael Bradley <michaelb@marquelawyers.com.au>; Lauren Gasparini <laureng@marquelawyers.com.au>; Hamish Rotstein <hamish@rotsteins.com.au>; erina.higgins@ashurst.com; Julie.Mills@ashurst.com; Stephen.Woodbury@ashurst.com
Subject: RE: NSD950/2025 and NSD951/2025 [Marque-DOCUMENTS.FID124631] [SEC=OFFICIAL]

Dear Colleagues,

We refer to our below email attaching the proposed minute of orders. Please note that these orders were sent with the intention of achieving a consent position and avoiding any need for a hearing on Monday.

Can the parties please confirm that they consent to the proposed orders by **4pm today**.

In the event that these orders are not agreed, we intend to rely on this correspondence to seek the costs of Monday's directions hearing, on the basis that it could have been avoided by the parties agreeing this reasonable consent position as to the timetabling and determination of the applications

Kind regards,

Upekha Wedage
Associate
LPN 5515129