

NOTICE OF FILING

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██████████ & ORS v STATE OF WESTERN AUSTRALIA
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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.

Affidavit of Stewart Levitt

No.

Federal Court of Australia
District Registry: Western Australia
Division: General

██████████ by his litigation representative ██████████ and another named
in the Schedule
Applicants

STATE OF WESTERN AUSTRALIA
Respondent

Affidavit of: Stewart Alan Levitt
Address: Ground Floor, 162 Goulburn St, Surry Hills NSW 2010
Occupation: Solicitor
Date: 12 May 2023

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Filed on behalf of (name & role of party) The Applicants
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I, Stewart Alan Levitt, of 162 Goulburn St, Surry Hills NSW 2010, solicitor, say on oath:

A. INTRODUCTION

1. I am the senior partner of Levitt Robinson Solicitors (**Levitt Robinson**). I am the solicitor on the record in this proceeding. I have approximately 44 years' experience as a solicitor conducting litigation, including 39 years as a principal. I have the carriage of this matter for the Applicants, with the assistance of solicitors employed by Levitt Robinson.
2. I make this affidavit to accompany the Originating Application in this proceeding (**Proceeding**), pursuant to r 8.05(1)(c) of the *Federal Court Rules 2011* (Cth) (**FCR**).
3. In this affidavit, defined terms have the same meaning given to those terms in the Originating Application.
4. Levitt Robinson has instructions from more than 10 current and former detainees of the juvenile detention centre located within Casuarina maximum security adult prison and known as Unit 18 (**Unit 18**). These clients, including the Applicants, are described as **Registered Group Members**. The instructions of the Registered Group Members relate to the way they were treated and their experiences in Unit 18.
5. The principal sources of my knowledge of the matters referred to in this affidavit are the instructions from, and documents provided by, Registered Group Members, along with the following reports of the Office of the Inspector of Custodial Services (WA) (**OICS**), with the following publication dates:
 - 5.1. *Behaviour management practices at Banksia Hill Detention Centre, June 2017*;
 - 5.2. *Strip searching practices in Western Australian prisons, March 2019*; and
 - 5.3. *Report 141, 2021 Inspection of the Intensive Support Unit at Banksia Hill Detention Centre, March 2022*.
6. Except where otherwise indicated, I make this affidavit from my own knowledge. Where I depose to a matter based on information and belief, I believe those matters to be true.
7. I am not authorised to waive any client legal privilege and nothing in this affidavit should be construed as a waiver of privilege. To the extent that anything in this affidavit may be so construed, I withdraw and do not rely on that part of the affidavit.
8. The Applicants commence this claim on their own behalf and on behalf of the group members (**Group Members**) as defined in the Originating Application.
9. Seven or more Group Members have claims against the Respondent.



Stewart Alan Levitt

10. The Respondent is sued under the title of the "State of Western Australia" pursuant to s 5 of the *Crown Suits Act 1947* (WA).

B. VICARIOUS LIABILITY

11. The Applicants claim that the Respondents are vicariously liable to the Applicants and the Group Members in respect of each act of unlawful discrimination alleged in this Proceeding to have been committed by the Minister, the CEO, Superintendents and/or Officers.

C. UNIT 18 AT CASOURINA PRISON

12. On 13 July 2022, the Minister declared, under section 13 of the Young Offenders Act 1994 (WA), those buildings and enclosures situated within Casuarina Prison and known as Unit 18 to be a detention centre, which commenced operation on 14 July 2022.
13. On 20 July 2022, approximately 20 detainees, who had immediately prior to that point been detained in Banksia Hill Detention Centre (**BHDC**), were transferred to Unit 18 (the **Initial Transferees**).
14. According to a media release by the Department of Justice, the Initial Transferees were selected for transfer to Unit 18 on the basis that they had "exhibited complex needs, had significant offending histories and for months had been destroying infrastructure, assaulting staff and harming themselves".
15. Thereafter, Unit 18 was operated as a detention centre for the duration of the Relevant Period, during which the Applicants and Group Members were detained there.
16. The accommodation for detainees in Unit 18 in the Relevant Period included:
- 16.1. a number of residential cells comprising general accommodation cells; and
- 16.2. a number of multi-purpose cells, observation and isolation cells, together referred to as the Multi-Purpose Unit (**MPU**).
17. MPU cells are primarily used for punishment, confinement and observation of detainees. They are usually completely empty, with no television or radio, no books or other reading material, and no personal items such as photographs.

D. PROPOSED LITIGATION REPRESENTATIVE FOR APPLICANTS, [REDACTED] AND [REDACTED]

18. In the case of the Applicants, [REDACTED] and [REDACTED], Levitt Robinson was instructed to commence this proceeding by a person occupying the role of a "responsible adult" in respect of that Applicant, within the meaning of s 3 of the Young Offenders Act 1994 (WA).
19. The relationship of those responsible adults to the Applicants is as follows:

19.1. for the First Applicant, [REDACTED], the responsible adult from whom Levitt Robinson received instructions was his father, [REDACTED]

19.2. for the Second Applicant, [REDACTED], the responsible adult from whom Levitt Robinson received instructions was his mother, [REDACTED].

Consent of Applicant, [REDACTED], and Proposed Litigation Representative

20. [REDACTED] is a 16-year-old male who is a "person under a legal incapacity" for the purposes of the FCR by reason of his minority.
21. [REDACTED] is currently detained in Unit 18.
22. I have been informed by Steven Hankey, a Levitt Robinson solicitor, that on 3 May 2023, he was instructed by [REDACTED] father, [REDACTED], to seek the appointment of [REDACTED] aunt, [REDACTED] as his litigation representative.
23. On 4 May 2023, [REDACTED] signed a form consenting to her appointment as the litigation representative of [REDACTED]. I intend to file a copy of that consent in this proceeding upon orders being made for the appointment of [REDACTED] as the litigation representative of [REDACTED], as required by Rule 9.64 of the FCR. Annexed hereto and marked "A" is a copy of that consent form.
24. I have been informed by both Dana Levitt (**Ms Levitt**) and Angelique Gebrayel, both solicitors employed by Levitt Robinson, and I believe that [REDACTED] has no interest in this proceeding which is adverse to the interest of [REDACTED]. Annexed hereto and marked "B" is a copy of a certificate signed by me to that effect, which I intend to file in this proceeding on orders being made for the appointment of [REDACTED], as required by Rule 9.64 of the FCR.
25. [REDACTED] is a natural person and I have no reason to believe that believe that [REDACTED] is a person under any legal incapacity.
26. I have been informed by Ms Levitt that on 5 May 2023, she spoke by telephone with [REDACTED] [REDACTED] who confirmed that he wanted [REDACTED] to be appointed as his litigation representative.
27. I have been informed by Ms Levitt that arrangements will be made for a copy of the application to be personally served on [REDACTED] through the Case Planner allocated to him by the Department of Justice. An affidavit of service will be completed thereafter.

Consent of Applicant, [REDACTED], and Proposed Litigation Representative

28. [REDACTED] is a 17-year-old male, who by reason of his minority is a "person under a legal incapacity" for the purposes of the FCR.

29. I have been informed by Ms Levitt that on 26 April 2023, she was instructed by [REDACTED] mother, [REDACTED] [REDACTED] to apply for her appointment as the litigation representative of [REDACTED].
30. On 27 April 2023, [REDACTED] signed a form consenting to her appointment as the litigation representative of [REDACTED]. I intend to file a copy of that consent in this proceeding upon orders being made for the appointment of [REDACTED] as the litigation representative of [REDACTED] as required by Rule 9.64 of the FCR. Annexed hereto and marked "C" is a copy of that consent form.
31. I have been informed by Ms Levitt and I believe that [REDACTED] has no interest in this proceeding which is adverse to the interest of [REDACTED]. Annexed hereto and marked "D" is a copy of a certificate signed by me to that effect, which I intend to file in this proceeding upon orders being made for the appointment of [REDACTED], as required by Rule 9.64 of the FCR.
32. [REDACTED] is a natural person and I have no reason to believe that [REDACTED] is a person under any legal incapacity.
33. I have been informed by Ms Levitt that on 3 May 2023, she spoke by Microsoft Teams link with [REDACTED], who confirmed that he wants [REDACTED] to be appointed as his litigation representative and would like Levitt Robinson to apply for that appointment.
34. I have been informed by Ms Levitt that arrangements have been made for a copy of the application to be personally served on [REDACTED], through the case planner allocated to him by the Department of Justice. An affidavit of service will be completed thereafter.

E. SUMMARY OF RELEVANT FACTUAL ALLEGATIONS OF APPLICANTS

E1. [REDACTED]

35. The first applicant, [REDACTED], was born on 10 February 2007.
36. [REDACTED] suffers from a neurological injury sustained in a motorcycle accident, as well as severe claustrophobia and suicidal ideation.
37. [REDACTED] neurological injury, claustrophobia and suicidal ideation together constitute a 'disability' within the meaning of section 4 of the DDA.
38. During the Relevant Period, [REDACTED] spent the following periods of time in detention at Unit 18:
- 38.1. 20 July 2022 to 23 August 2022,
- 38.2. 28 September 2022 to 14 December 2022,

38.3. from around 15 February 2023 date to 6 March 2023,
a total of approximately 130 days held in detention at Unit 18.

39. [REDACTED] alleges that:

39.1. His neurological injury, claustrophobia and suicidal ideation manifest in various ways including:

39.1.1. destroying property;

39.1.2. self-harming;

39.1.3. lack of thought and/or concern for the consequences of his actions;

39.1.4. difficulty controlling his impulses;

39.1.5. difficulty refraining from the above behaviour;

39.1.6. difficulty regulating his emotions; and

39.1.7. refusing to follow instructions.

39.2. Throughout the Relevant Period while detained at Unit 18, [REDACTED] spent prolonged periods of time in solitary confinement, first in an ordinary cell, then an observation cell, and then in several other MPU cells within the Unit, as a result of Officers enforcing disciplinary policies against [REDACTED] which were unsuitable for him because of his disabilities.

39.3. Between 21 July 2022 and 19 August 2022, [REDACTED] was confined to his cell for an additional 203 hours and 54 minutes, or an average of 7 hours and 50 minutes per day, in addition to the 13 hours of standard night-time lockdown between 18:45 – 07:45. [REDACTED] spent an average of 20 hours and 50 minutes locked down in his cell.

39.4. [REDACTED] disabilities means he has significant difficulty coping with protracted periods of lockdown in cell and limited access to programmes, activities, socialisation, which trigger feelings of boredom, frustration, isolation, distress and desperation, acts of self-harm and attempted suicide. His confinement in his cell within Unit 18 thus exacerbated the manifestations of his disabilities described above.

39.5. In addition to being confined in his cell, [REDACTED] was regularly subjected to punishments, including in response to suicide attempts and incidents of self-harm, involving the loss of privileges and/or programme placements, including restricting [REDACTED] access, either in part or in full to:



- 39.5.1. a television or radio,
- 39.5.2. educational worksheets or other reading material,
- 39.5.3. education or rehabilitation programs,
- 39.5.4. sport, exercise, games or recreation,
- 39.5.5. the ability to eat or socialise with other detainees,
- 39.5.6. in-person contact with visitors or any other person aside from custodial staff,
- 39.5.7. telephone contact with family members,
- 39.5.8. a towel, shampoo, bodywash, toothbrush or other hygiene products,
- 39.5.9. the opportunity to take a shower.

39.6. These punishments further exacerbated manifestations of [REDACTED] disabilities, which were treated by Officers as incidents of poor behaviour rather than as manifestations of a disability, precipitating a rapid decline in the mental and physical health of [REDACTED]. In one instance, [REDACTED] fashioned a noose out of the rip-proof gown he was forced to wear. Officers responded by removing the gown, and then left [REDACTED] naked, in solitary confinement in an MPU cell, with only a rip-proof doona for comfort.

39.7. While detained in Unit 18, and in particular in the MPU:

- 39.7.1. [REDACTED] was frequently subjected to routine and excessive use of force and restraints, including three-point restraints;
- 39.7.2. [REDACTED] was subjected to strip searches;
- 39.7.3. [REDACTED] received little to no recreation time outside his cell.

39.8. While detained in Unit 18, [REDACTED] received little to no access to education or any programs for rehabilitation by reason of the CEO, Superintendent and/or Officers to:

- 39.8.1. provide sufficient access to teachers and substitute teachers;
- 39.8.2. adequately resource education at Unit 18,
- 39.8.3. adequately staff Unit 18 to facilitate the minimum 9.8 hours out of cell each day, required for standard programme delivery.

39.9. While detained in Unit 18, [REDACTED] had ongoing difficulties in accessing psycho-social supports, including but not limited to:

- 39.9.1. Face to-face visits with [REDACTED];

- 39.9.2. E-visits with his litigation representative, other family, and friends;
 - 39.9.3. access to psychologists, mentors, and other non-custodial staff, due to a lack of confidential spaces in which to speak; and
 - 39.9.4. when welfare checks and/or psych assessments did occur, being subjected to them being completed through a grille on the door of his cell.
- 39.10. As a result of [REDACTED] being detained in Unit 18, because of his age, [REDACTED] was:
- 39.10.1. not able to access facilities provided for detainees at BHDC without first being transferred back to BHDC; and
 - 39.10.2. was regularly unable to access any of the facilities for prisoners provided at Casuarina Prison, because detainees in Unit 18 were not permitted to interact with the adult prison population.

E2. [REDACTED]

40. The Second Applicant, [REDACTED], was born on 6 August 2005.
41. [REDACTED] suffers from attention deficit hyperactivity disorder (**ADHD**) and adolescent-onset conduct disorder (**AOCD**).
42. [REDACTED] symptoms of his ADHD and AOCD include:
- 42.1. prominent inattention;
 - 42.2. anxiety and panic attacks;
 - 42.3. insomnia;
 - 42.4. oppositional defiance traits;
 - 42.5. executive functioning problems;
 - 42.6. drug abuse; and
 - 42.7. social skills difficulties.
43. [REDACTED] ADHD and AOCD together constitute and at all relevant times constituted a 'disability' within the meaning of section 4 of the DDA.
44. As treatment for his ADHD, [REDACTED] has at various times been prescribed medications including Ritalin, Concerta, Vyavnse and Strattera. As treatment for his other conditions, he has been prescribed various sedative medications including Xanax, Mirtazapine, Seroquel, and Clonazepam, to be taken daily. Since his admission to Unit 18, [REDACTED]



has additionally been prescribed Clonidine, to help him deal with the stress of his living conditions within Unit 18.

45. During the Relevant Period, [REDACTED] was detained at Unit 18 during the following periods:

45.1. 20 July to 10 August 2022;

45.2. 15 August 2022 to 8 September 2022;

45.3. 17 October 2022 to 13 January 2023; and

45.4. 27 January 2023 to 6 March 2023,

totalling 171 days in detention at Unit 18.

46. [REDACTED] alleges that

46.1. [REDACTED] disabilities manifest themselves in various ways, including in behaviour consistent with pyromania, kleptomania, oppositional defiant disorder and impulse control disorder. [REDACTED] disabilities affect his ability to cope with stress, boredom, anger and frustration. As a result of this, during his periods in detention, [REDACTED] has engaged in the following types of behaviour, which were a symptom of, or a manifestation of, his disabilities:

46.1.1. setting fires;

46.1.2. destroying others' property;

46.1.3. lack of thought and/or concern for the consequences of his actions;

46.1.4. difficulty controlling his impulses;

46.1.5. difficulty refraining from the above behaviour;

46.1.6. difficulty regulating his emotions;

46.1.7. self-harming; and

46.1.8. refusal to follow instructions.

46.2. In addition to the standard night-time lockdown hours, [REDACTED] was during the Relevant Period confined to his cell in Unit 18 for additional lockdown hours. [REDACTED] is not currently able to provide details as to the exact times, dates and durations of the periods during which he was subject to additional lockdown hours.



- 46.3. For the extended periods during which [REDACTED] has been confined in his cell in Unit 18, he has been deprived of access to education to an even greater degree than was otherwise the case during his detention at Unit 18.
- 46.4. [REDACTED] was confined to his cell for extended periods as a result of Officers enforcing disciplinary policies which were and are unsuitable for [REDACTED] because of his disabilities.
- 46.5. While detained in Unit 18, in particular within the MPU:
- 46.5.1. His recreation time outside his cell has been minimal to non-existent.
 - 46.5.2. He has been routinely handcuffed and/or had his legs shackled when he has been allowed out of his cell, including when attending visits from family members or medical appointments.
 - 46.5.3. He has been subjected to strip searches and watched by officers while in the shower. He has found these experiences distressing and humiliating.
 - 46.5.4. On several occasions, Officers have subjected him to rough handling, including being forcibly held down on the ground and having his head banged against the wall or floor by Officers.
 - 46.5.5. On several occasions, Officers have subjected him to leg shackles, and three-point restraints.
 - 46.5.6. [REDACTED] found the use of force and imposition of restraints on him extremely stressful and traumatic. He often reacted to these incidents by escalating his non-compliant behaviour and acts of self-harm.
 - 46.5.7. [REDACTED] has not been given adequate therapeutic support for his disabilities and the trauma of being subjected to the disciplinary regime and punitive culture of Unit 18 including not having been given the opportunity to consult with a psychiatrist since in or about October 2022;
 - 46.5.8. The confinement of [REDACTED] for extended periods, strip searches, and use of force, has had a compounding effect on [REDACTED] pre-existing disabilities.
 - 46.5.9. [REDACTED] has regularly been subjected to loss of program placement, loss of access to the fitness room, loss of canteen privileges and/or loss of television privileges. This has resulted in [REDACTED] being without access to television, radio, reading material or any other form of entertainment or amusement or method of passing the time.



46.6. While detained in Unit 18, he received little to no access to education or any programs for rehabilitation by reason of the failure of the CEO, the Superintendent and/or Officers to:

46.6.1. provide sufficient access to teachers and substitute teachers;

46.6.2. adequately resource education at Unit 18

46.6.3. adequately staff Unit 18 to facilitate the minimum 9.8 hours out of cell each day, required for standard programme delivery.

46.7. As a result of [REDACTED] being detained in Unit 18, [REDACTED] was, because of his age:

46.7.1. not able to access facilities provided for detainees at BHDC without first being transferred back to BHDC; and

46.7.2. was regularly unable to access any of the facilities for prisoners provided at Casuarina Prison, because detainees in Unit 18 were not permitted to interact with the adult prison population.

47. In the case of [REDACTED], Levitt Robinson has been able to provide more exact details by virtue of having received a copy of his detention management report. I anticipate that [REDACTED] will be able to confirm the details of the exact times, dates and durations of the periods during which he was subject to additional lockdown hours upon obtaining a copy of the equivalent report for him.

F. DISCRIMINATION CLAIMS

F1. Complaint to AHRC

48. On 30 September 2022, a representative complaint was lodged with the Australian Human Rights Commission (AHRC) (Complaint) in which the First Applicant is a named complainant, and in respect of which the Second Applicant is an affected person within the meaning of ss 3 and 46PO(2) of the *Australian Human Rights Commission Act 1986* (Cth).

49. The Complaint alleged acts, omissions and practices by the Respondent and its agents which unlawfully discriminated against the First Applicant (and others named in the Complaint) on the grounds of:

49.1. race, contrary to the *Racial Discrimination Act 1975* (Cth);

49.2. disability, contrary to the *DDA*; and

49.3. age, contrary to the *Age Discrimination Act 2004* (Cth).

50. The Complaint was terminated by a delegate of the President of the AHRC on 6 March 2023. A copy of the Termination Notice is annexed to the Originating Application, together with a copy of the delegate's reasons for decision.
51. In this Proceeding, the Applicants, for themselves and on behalf of Group Members, claim unlawful discrimination on the grounds of disability arising out of substantially the same acts, omissions and practices that were the subject of the Complaint as described below.
52. The Applicants are not currently pursuing in this Proceeding, the complaints for themselves and on behalf of Group Members in the Complaint of discrimination on the grounds of race.

F2. Disability discrimination

53. Most young people detained in Unit 18 in the Relevant Period, including [REDACTED] and [REDACTED] [REDACTED] have serious cognitive impairments, behavioural disorders or other mental health conditions.
54. The Applicants claim that they and other Group Members with a disability suffered unlawful discrimination on the grounds of disability:
 - 54.1. the same in substance as the unlawful disability discrimination that was the subject of the Complaint; and/or
 - 54.2. arising out of substantially the same acts, omissions and practices that were the subject of the Complaint.
55. The Applicants claim that, among other things, the Respondent failed to:
 - 55.1. provide appropriate treatment, programs and services for Group Members with a disability;
 - 55.2. consult with Group Members with a disability about whether their disability affected their ability to participate in educational programs and services;
 - 55.3. decide, in light of any such consultation, whether an adjustment was necessary to ensure that Group Members with a disability were able to participate on the same basis as detainees without a disability; or
 - 55.4. provide reasonable supports for the learning of Group Members with a disability, such as specialist teacher training and the provision of aides to support curriculum access.
56. The Applicants claim that it was more difficult for Group Members with a disability to access educational programs, as compared to detainees who did not have a disability, due to, among other things, their detention within Unit 18, during periods when they have been confined in the MPU.



57. The Applicants claim that the Respondent failed to make reasonable adjustments for Group Members with a disability, having the effect that Group Members with a disability were less favourably treated than detainees who did not have a disability in relation to programs, services and facilities and access to education in Unit 18 as compared to other Detention Centres in operation during the Relevant Period.
58. The Applicants claim that Group Members with a disability were subject to unreasonable conditions and requirements which, because of their disabilities, they could not comply with. In particular, Unit 18 detainees were required to comply with Unit 18 discipline policies and to submit to routine strip searching. Their non-compliance was frequently met with punitive sanctions, such as use of force, use of restraints, prolonged confinement, and denial of privileges.
59. The Applicants further claim that the Respondent, by its employees and agents, failed to comply with the *Disability Standards for Education 2005* (Cth).

F3. Age discrimination

60. The Applicants and Group Members, while detained at Unit 18, were:
- 60.1. not able to access facilities provided for detainees at BHDC without first being transferred back to BHDC; and
- 60.2. regularly unable to access any of the facilities for adult prisoners provided at Casuarina Prison, because detainees in Unit 18 were not permitted to interact with the adult prison population.
61. Consequently, the Applicants and Group Members were deprived of access to facilities and services by reason of their age and thereby disadvantaged.

G. THE RELIEF SOUGHT FROM THE COURT

62. The Applicants allege that they and the Group Members have suffered loss and damage including physical injury, psychiatric injury, economic loss, deprivation of liberty, discomfort, fear and distress, loss of dignity, disgrace, and humiliation, by reason of the conduct summarised above for which the Respondent is vicariously liable under s 123 of the DDA and section 57 of the ADA.
63. The Applicants, on their own behalf and on behalf of the Group Members, seek the relief set out in the accompanying Originating Application.
64. Levitt Robinson is also instructed in existing Federal Court Proceedings WAD 251/2022 titled, *Walters & anor v WA* (the **WA Youth Detention Class Action**).



65. The allegations made by the Applicants and Group Members relating to unlawful disability discrimination in Unit 18 are similar in kind to the allegations regarding disability discrimination made in the WA Youth Detention Class Action.
66. In addition to the matters set out in this affidavit, the Applicants and Group Members also have tortious claims relating to battery, assault, false imprisonment and breaches of a duty of care, in respect of which they are group members in the WA Youth Detention Class Action. There is a significant degree of overlap in the factual matters underlying both their claims for unlawful discrimination and those tortious claims, such as the extent to which Applicants and Group Members have been confined in their cells.
67. For these reasons I believe that it would be most efficient if these proceedings were to run together with the WA Youth Detention Class Action. The Applicants intend to seek orders that the matters run together and that evidence and discovery in one proceeding be evidence and discovery in the other.
68. On 20 April 2023, Her Honour Justice Banks-Smith made consent orders in the WA Youth Detention Class Action, including an order for the filing of a statement of claim by 17 May 2023.
69. With a view to the efficient case management of both proceedings, I consider that it would be ideal if a statement of claim in this proceeding, so far as possible and appropriate, reflected the framing of the statement of claim in the WA Youth Detention Class Action.
70. For that reason, I consider that the filing of a statement of claim in this proceeding should await the finalisation and filing of a statement of claim in the WA Youth Detention Class Action.
71. For this reason, I also believe that it is in the best interests of Group Members to commence this proceeding by way of Originating Application and this affidavit, rather than by Originating Application accompanied by a Statement of Claim. However, it is proposed to proceed with a Statement of Claim, which will be prepared and settled by counsel in due course, as outlined above.

H. CONFIDENTIALITY

72. It is necessary to keep the identity of the Applicants confidential because they are minors.
73. I believe it is also necessary for the identities of the following persons to be kept confidential and for those persons to be identified by pseudonyms, to avoid the risk that the identities of any of the Applicants, who are minors, will be indirectly disclosed through the disclosure of the identities of those persons, being:



73.1. the Interested Person applying for the appointment of the proposed litigation representative for the First Applicant;

73.2. the person who is proposed to be the litigation representative for the First Applicant; and

73.3. the Interested Person who is applying for herself to be appointed as the litigation representative for the Second Applicant.

74. The names, addresses and proposed pseudonyms of those persons and their role in the proceedings are set out in the below table:

PROPOSED PSEUDONYM	ROLE	NAME	ADDRESS
EFZ	First Applicant	[REDACTED]	In Detention
EFX	Proposed Litigation Representative for EFZ	[REDACTED]	[REDACTED]
EFY	Interested Person for EFZ	[REDACTED]	Casuarina Prison, 288 Orton Road, Casuarina, WA
FFZ	Second Applicant	[REDACTED]	In Detention
FFX	Proposed Litigation Representative and Interested Person for FFZ	[REDACTED]	[REDACTED]

75. Each of the persons referred to in the above table is a natural person

Affirmed by the deponent
at Sydney in NSW
on 12 May 2023
Before me:

)
)
)
)
)
Signature of Stewart Alan Levitt


Signature of witness

Name: *BLAISE PRENTICE-DAVIDSON*

Qualification: *SOLICITOR*

GROUND FLOOR, 162 GOULBURN ST, JURRY HILLS, NSW 2010

Certificate of lawyer

I, Stewart Levitt, certify to the Court that, in relation to the affidavit filed on behalf of the Applicants, the factual and legal material available to me at present provides a proper basis for each allegation in the affidavit.

Date: 12 May 2023

A handwritten signature in black ink, appearing to be 'S. Levitt', written over a horizontal line.

Signed by Stewart Levitt

Lawyer for the Applicants

CONSENT TO ACT AS LITIGATION REPRESENTATIVE

I, [REDACTED] of [REDACTED] am the maternal aunt of [REDACTED]
[REDACTED]

I am aware that the father of [REDACTED], [REDACTED], has instructed Stewart Levitt of Levitt Robinson Solicitors to apply for my appointment as the litigation representative of [REDACTED]
[REDACTED]

I hereby consent to my appointment as the litigation representative for [REDACTED] in proceedings to be filed in the Federal Court of Australia against the State of Western Australia relating to alleged mistreatment of and/or discrimination against [REDACTED], in juvenile detention centres in Western Australia, including Banksia Hill Detention Centre and Unit 18, Casuarina Prison.

I also instruct Stewart Levitt of Levitt Robinson Solicitors to commence proceedings in the Federal Court of Australia against the State of Western Australia on behalf of [REDACTED] relating to alleged mistreatment of and/or discrimination against him in juvenile detention centres in Western Australia, including Banksia Hill Detention Centre and Unit 18, Casuarina Prison

[REDACTED]

(Signature)

Date: 04-May-23

This page is the annexure marked "A" referred to in the affidavit of Stewart Alan Levitt sworn this 12th day of May 2023 before me:

Blaise Prentice-Davidson
 BLAISE PRENTICE-DAVIDSON, SOLICITOR
 GROUND FLOOR, 162 COULBURN ST, SURRY HILLS,
 NSW, 2010.

Form 132
Rule 40.32(1)

Litigation Representative Certificate

Federal Court of Australia
District Registry: WA
Division: General

No. _____ of 2023

EFZ BY HIS LITIGATION REPRESENTATIVE AND ANOTHER NAMED IN THE SCHEDULE

Applicants

THE STATE OF WESTERN AUSTRALIA

Respondent

For the purposes of Rule 9.64 of the *Federal Court Rules 2011* (Cth), I certify that EFX, being the aunt of EFZ, has no interest in this proceeding that is adverse to the interest of EFZ.

Date: 5 May 2023



Dana Levitt, solicitor

This page is the annexure marked "B" referred to in the affidavit of Stewart Alan Levitt sworn this 12th day of May 2023 before me:


 PRUDENCE PRENTICE-DAVIDSON, SOLICITOR,
 GROUND FLOOR, 162 GOULBURN ST, SURRAY
 HILLS, NSW, 2010

CONSENT TO APPOINT LITIGATION REPRESENTATIVE

I, [REDACTED] of [REDACTED],
am the mother of [REDACTED]
[REDACTED]

I hereby instruct:

- Stewart Levitt of Levitt Robinson Solicitors to file an application in the Federal Court of Australia seeking an order appointing me as the litigation representative for [REDACTED] in proceedings to be filed in the Federal Court of Australia on behalf of [REDACTED] relating to alleged mistreatment of and/or discrimination against him in juvenile detention centres in Western Australia, including Banksia Hill Detention Centre and Unit 18, Casuarina Prison.

I hereby consent:

- To my appointment as the litigation representative for [REDACTED] in proceedings to be filed in the Federal Court of Australia against the State of Western Australia for alleged mistreatment of and/or discrimination against [REDACTED] in juvenile detention centres in Western Australia, including Banksia Hill Detention Centre and Unit 18, Casuarina Prison.

I also instruct:

- Stewart Levitt of Levitt Robinson Solicitors to commence proceedings in the Federal Court of Australia against the State of Western Australia on behalf of [REDACTED] relating to alleged mistreatment of and/or discrimination against him in juvenile detention centres in Western Australia, including Banksia Hill Detention Centre and Unit 18, Casuarina Prison.

3rd May 2023

Date:

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[REDACTED] (Signature)

This page is the annexure marked "C" referred to in the affidavit of Stewart Alan Levitt sworn this 12th day of May 2023 before me:

Blaise Prentice-Davidson
BLAISE PRENTICE-DAVIDSON, SOLICITOR
GROUND FLOOR, 162 GOULBURN ST, SURRY
HILLS, NSW, 2010.

Form 132
Rule 40.32(1)

Litigation Representative Certificate

No. of 2023

Federal Court of Australia
District Registry: WA
Division: General

EFZ BY HIS LITIGATION REPRESENTATIVE AND ANOTHER NAMED IN THE SCHEDULE

Applicants

THE STATE OF WESTERN AUSTRALIA

Respondent

For the purposes of Rule 9.64 of the *Federal Court Rules 2011* (Cth), I certify that FFX, being the mother of FFZ, has no interest in this proceeding that is adverse to the interest of FFZ.

Date: 5 May 2023



Dana Levitt, solicitor

This page is the annexure marked "D" referred to in the affidavit of Stewart Alan Levitt sworn this 12th day of May 2023 before me:



BLAISE PRENTICE-DAVIDSON, SOLICITOR,
GROUND FLOOR, 162 GOULBURN ST,
SURRY HILLS, NSW, 2010.