Form 38

Rule 20.17(1)

List of documents

No.       of 20

Federal Court of Australia

District Registry: [State]

Division: [Division]

**[Name of First Applicant]** [if 2 or more add "and another" or "and others"]

Applicant[s]

**[Name of First Respondent]** [if 2 or more add "and another" or "and others"]

Respondent[s]

Pursuant to the order for discovery made on [date], the [role of party eg Respondent] makes this list of documents and affidavit.

**Affidavit**

On [date], I [name address and occupation] [\*either]say on oath [\*or]affirm:

1. [\*Either]I am the [role of party eg Respondent] [\*or]I am the [position of officer eg director] of the [role of party eg Respondent] and I am authorised to make this affidavit on the [role of party eg Respondent]’s behalf.
2. I have made reasonable enquiries as to the existence and location of the documents specified in the order.
3. To the best of my [\*]knowledge [\*or]knowledge, information and belief, there are no documents specified in the order that are or have been in [\*if deponent is the party]my control [\*or]the control of [the party/person ordered to make the list of documents], other than the documents specified in this list of documents.
4. The documents set out in part 1 are in [\*if deponent is the party]my control [\*or]the control of [the party/person ordered to make the list of documents] and I do not claim privilege from production for any of these documents.
5. The documents set out in part 2 are in [\*if deponent is the party]my control [\*or]the control of [the party/person ordered to make the list of documents] but I claim privilege from production of each of these documents on the grounds set out in part 2.
6. The documents set out in part 3 have been but are no longer in [\*if deponent is the party]my control [\*or]the control of [the party/person ordered to make the list of documents]. Details of when each document was last in [\*if deponent is the party]my control [\*or]the control of [the party/person ordered to make the list of documents] and what became of it are set out in part 3.

|  |  |  |
| --- | --- | --- |
| Sworn / Affirmed by the deponent  at [place]  in [State or Territory]  on [date]  Before me: | )  )  )  )  ) |  |
| Signed by deponent |
|  |  |  |

Signed by witness

[Name and qualification of witness]

[the deponent and witness must sign each page of the affidavit]

**Inspection of documents**

The documents set out in part 1 may be inspected at [address] on [insert date(s) and time(s)].

Date: [eg 19 June 20..]

|  |
| --- |
| Signed by [Name]  [Insert capacity eg Applicant / Lawyer for the Applicant] |

[\* Delete if inapplicable]

**Part 1 - Documents in the control of [role of party eg the Respondent / person]**

| **No.** | **Description of document(s) / category** | **Number of documents in category (if applicable)** | **Date/period** |
| --- | --- | --- | --- |
|  | [Describe each category of documents in the party's control sufficiently to identify the category but not necessarily the particular document]  [Describe each document as original or copy] |  |  |
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**Part 2 – Documents in the control of [role of party eg the Respondent / person] for which privilege from production is claimed**

| **No.** | **Description of document** | **Date of document** | **State grounds of privilege** |
| --- | --- | --- | --- |
|  | [Describe each document for which privilege from production is claimed] |  |  |
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**Part 3 – Documents that have been but are no longer in the control of [role of party eg the Respondent / person]**

| **No.** | **Description of document** | **Date of document** | **What became of document** |
| --- | --- | --- | --- |
|  | [Describe each document that has been, but is no longer in the party/person's control] |  | [State when document was last in the control of the party / person and what became of it] |
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