

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 23/04/2021 4:12:43 PM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged:	Notice of Cross-Claim - Form 31 - Rule 15.02(1)
File Number:	NSD137/2021
File Title:	CHUBB INSURANCE AUSTRALIA LIMITED (ABN 23 001 642 020) v PHILIP WALDECK
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



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

Dated: 26/04/2021 9:20:58 AM AEST

Registrar

Important Information

As required by the Court's Rules, 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 Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.

Form 31
Rule 15.02(1)



Notice of cross-claim

No. NSD 137 of 2021

Federal Court of Australia
District Registry: New South Wales
Division: Commercial and Corporations

Chubb Insurance Australia Limited (ABN 23 001 642 020)

Applicant

Mr Philip Waldeck

Respondent

Mr Philip Waldeck

Cross-claimant

Chubb Insurance Australia Limited (ABN 23 001 642 020)

Cross-respondent

To Chubb Insurance Australia Limited (ABN 23 001 642 020), the cross-respondent

The cross-claimant Philip Waldeck, the respondent in the proceeding, applies for the relief set out in this cross-claim.

The Court will hear this cross-claim, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

If you have not already done so, you must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Filed on behalf of (name & role of party)	Philip Waldeck, the respondent and cross-claimant		
Prepared by (name of person/lawyer)	Christopher Michael Erfurt, Lawyer for the respondent		
Law firm (if applicable)	Clayton Utz		
Tel	+61 7 3292 7799	Fax	+61 7 3221 9669
Email	cerfurt@claytonutz.com		
Address for service (include state and postcode)	Level 28 Riparian Plaza, 71 Eagle Street, Brisbane QLD 4000 Australia		

[Form approved 01/08/2011]



Time and date for hearing:

Place:

The Court ordered that the time for serving this application be abridged to

Date: 23 April 2021

Signed by an officer acting with the authority
of the District Registrar

Details of cross-claim

On the grounds stated in the statement of cross-claim, accompanying affidavit or other document prescribed by the Rules, the cross-claimant claims:

1. a declaration that Chubb Insurance Australia Limited is liable to indemnify Philip Waldeck under Section 2 - Business Interruption, Extension C: non damage of the Chubb Business Pack policy EPM0018480;
2. a declaration that the counter-factual required under the definition of "Trend in the Business" in Section 2 - Business Interruption of the Chubb Business Pack policy EPM0018480 ignores the insured peril and trends or circumstances arising out of the same underlying or originating cause as the insured peril, namely the COVID-19 pandemic; and
3. a declaration that Philip Waldeck is entitled to interest pursuant to section 57 of the *Insurance Contracts Act 1984* (Cth) on any amount for which Chubb Insurance Australia Limited is liable under the Chubb Business Pack policy EPM0018480 to pay Waldeck in respect of the claim, calculated from the date Chubb Insurance Australia Limited should reasonably have paid that claim in accordance with its contractual obligation to do so.

Cross-claimant's address

The cross-claimant's address for service is:

Place: Level 28 Riparian Plaza, 71 Eagle Street, Brisbane, QLD 4000

Email: cerfurt@claytonutz.com

The cross-claimant's address is 1197 Toorak Road, Camberwell, VIC 3124

Service on the cross-respondent

It is intended to serve this cross-claim on the following cross-respondent:

Chubb Insurance Australia Limited (ABN 23 001 642 020)



Date: 23 April 2021

A handwritten signature in black ink, appearing to be "C. Erfurt", written over a horizontal line.

Signed by Christopher Michael Erfurt
Lawyer for the respondent and cross-claimant