



**IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
GROUP PROCEEDINGS LIST**

Case S 501/2020 03339
S E C P 2020 03339

Filed on: 04/07/2022 03:07 PM

BETWEEN

EFSTATHIA (EFFIE) FOTIADIS

Plaintiff

-and-

**ST. BASIL'S HOMES FOR THE AGED IN VICTORIA
ACN 070 511 616**

Defendant

REPLY

Date of Document:	4 July 2022	Solicitors Code:	112 579
Filed on behalf of:	The Plaintiff	Telephone:	(03) 9102 6200
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Unless otherwise stated, the plaintiff adopts the defined terms used in the further amended statement of claim dated 7 February 2022 (**Statement of Claim**).

The plaintiff joins issue with the allegations contained in the defence dated 24 May 2022 (**Defence**), save for the admissions therein, and says by way of reply.

1. As to paragraph 1 of the Defence, the plaintiff:
 - (a) admits the allegations in subparagraph 1(c)(i)(1);
 - (b) admits the allegations in subparagraph 1(c)(i)(2);
 - (c) as to subparagraph 1(d), admits that “residential care” is defined in s 41-3 of the Act, and says further that the definition of Residential Care Services also includes the ‘hotel services’ and ‘care and services’ specified in Schedule 1 of the *Quality of Care Principles 2014* (Cth).
2. As to paragraph 7 of the Defence, the plaintiff admits the Department document titled “COVID-19 outbreaks in Australian Residential aged care facilities” states that “[i]n

Victoria, a death is reported when a person with COVID-19 dies during an active outbreak at an aged care facility, irrespective of the cause of death”.

3. The plaintiff admits the allegations in subparagraph 21(a) of the Defence.
4. As to paragraph 23 of the Defence, the plaintiff:
 - (a) admits the CDNA National Guidelines published on 13 March 2020 was version 1 of the document as alleged in subparagraph 23(a); and
 - (b) admits the updated versions of the CDNA National Guidelines published on 30 April 2020 was version 2, and those published on 14 July 2020 was version 3 as alleged in subparagraph 23(d)(i).
5. As to paragraph 34 of the Defence, the plaintiff admits that diarrhea is stated to be a rare, and not sometimes, symptom of COVID-19 in the Department document titled “Coronavirus (COVID 19) – Identifying the symptoms”.
6. As to subparagraph 47 of the Defence, the plaintiff:
 - (a) subject to reference to the full terms and effect of the 21 July 2020 notification from the Victorian Chief Health Officer, including the matters at paragraph 64 of the Statement of Claim, admits that the notification contained statements to the effect alleged in subparagraphs 47(p)(i)(1)a to 47(p)(i)(1)c;
 - (b) as to subparagraph 47(p)(i)(2), says that the notification stated that “I understand that the facility will require an alternative workforce to continue to operate. The [Victorian Department of Human Services] is working with the Commonwealth Department of Health and the Aged Care Quality and Safety Commission to support this”;
 - (c) admits the allegations in subparagraphs 47(p)(ii)(1)a to 47(p)(ii)(1)d;
 - (d) as to subparagraph 47(p)(iii), says that:
 - (i) on 22 July 2020 the Department provided alternative workers to support the defendant to continue to operate St Basil’s; and
 - (ii) the supply of the alternative workers does not terminate the duties and obligations owed by St Basil’s as set out in the Statement of Claim;
 - (e) admits the allegations in subparagraph 80A.

Dated: 4 July 2022

A. T. Broadfoot

B. L. Hutchins

S.C.B Brenker

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