



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

S ECI 2024 03483

Case: S ECI 2024 03483

Filed on: 23/02/2026 04:03 PM

BETWEEN:

BRIAN HOLMES

Plaintiff

and

KNOWMORE LEGAL SERVICE LIMITED (ACN 639 490 912)

First Defendant

and

**NATIONAL ASSOCIATION OF COMMUNITY LEGAL CENTRES
(ABN 67 757 001 303)**

Second Defendant

**DEFENCE OF THE FIRST DEFENDANT TO THE FURTHER AMENDED STATEMENT OF
CLAIM FILED ON 28 JANUARY 2026**

Date of document: ~~44 February 2025~~ 23 February 2026

Filed on behalf of: The First Defendant

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To the Further Amended Statement of Claim (**FASOC**) ~~dated~~ filed on 28 January 2026 ~~46~~
~~October 2024~~, the First Defendant (**Knowmore Legal**) says as follows:

1. As to paragraph 1, it:
 - (a) admits that, by section 8 of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth) (**NRS Act**), the National Redress Scheme for Institutional Child Sexual Abuse (**National Redress Scheme**) was established;
 - (b) admits that the NRS Act commenced operation on 1 July 2018;
 - (c) does not admit that the National Redress Scheme commenced operation effective 1 July 2018.
2. [Paragraph 2 of the ASOC has been struck out].

3. As to paragraph 3, it:
 - (a) admits the allegations;
 - (b) will rely upon the full text of ss 29 and 39 of the NRS Act at trial.
4. As to paragraph 4, it:
 - (a) admits the allegations;
 - (b) will rely upon the full text of ss 42 and 43 of the NRS Act at trial.
5. It admits paragraph 5.
6. As to paragraph 6, it:
 - (a) admits sub-paragraph (a);
 - (b) does not know, and therefore does not admit, sub-paragraph (b)
 - (c) does not know, and therefore does not admit, sub-paragraph (c);
 - (d) does not know, and therefore does not admit, sub-paragraph (d).
7. As to paragraph 7, it:
 - (a) admits sub-paragraph (a);
 - (b) admits sub-paragraph (b);
 - (c) admits sub-paragraph (c);
 - (d) admits sub-paragraph (d) and says further that Knowmore Legal utilised the business name "Knowmore" on and from 4 November 2020;
 - (e) says further that, at all material times, Knowmore Legal:
 - (i) has operated as a not-for-profit entity;

- (ii) has been predominantly funded by the Commonwealth Government including, in particular, the Attorney-General's Department, the Department of Social Services and the National Indigenous Australians Agency.

Particulars

A. Commonwealth Standard Grant Agreement ID 4-8L844ND dated 28 June 2018 (including all subsequent variations to that agreement), a copy of which is available for inspection.

8. As to paragraph 8 it:

- (a) admits that, since 4 November 2020, Knowmore Legal:
 - (i) has carried on business under the business name "Knowmore";
 - (ii) has provided legal services to its clients, including advice regarding the National Redress Scheme;
- (b) denies that it carried on any joint venture, partnership, or any other common enterprise, with the Second Defendant;
- (c) otherwise denies the allegations.

9. As to paragraph 9, it:

- (a) admits that the Plaintiff alleges that he is a survivor of historical child sexual abuse caused by the acts or omissions of the Salvation Army (Victoria) Property Trust (**Salvation Army**) and the Director of the Department of Community Welfare Services as succeeded by the Department of Health and Human Services (**DHHS**);
- (b) does not know, and therefore does not admit, that the Plaintiff is a survivor of historical child sexual abuse caused by the acts or omissions of the Salvation Army or the DHHS.

10. As to paragraph 10, it:
- (a) admits that, in or around December 2018, the Second Defendant was retained by the Plaintiff to assist him to prepare and lodge an application to the National Redress Scheme (**Knowmore Retainer**);
 - (b) says further that:
 - (i) on and from about 4 November 2020, Knowmore Legal adopted and agreed to be bound by any agreements and client retainers entered into by the Second Defendant in the conduct of the “Knowmore Legal Service” business, which remained ongoing as at 4 November 2020, including (but not limited to) the Knowmore Retainer; and
 - (ii) clients of the Second Defendant, by their conduct in continuing to instruct Knowmore Legal on and from about 4 November 2020, agreed to be bound by any client agreements and client retainers entered into by the Second Defendant which remained ongoing as at 4 November 2020, including (but not limited to) the Knowmore Retainer;
 - (c) says further that there were terms of the agreement between the Plaintiff and Knowmore Legal constituted by the Knowmore Retainer providing that:
 - (i) Knowmore Legal would assist the Plaintiff to prepare an application to the National Redress Scheme;
 - (ii) Knowmore Legal would advise the Plaintiff regarding any monetary payment he might receive from the National Redress Scheme;
 - (iii) Knowmore Legal would exercise the care and skill of a reasonably competent lawyer in assisting and advising the Plaintiff within the scope of the Knowmore Retainer;
 - (iv) Knowmore Legal would not provide legal services or otherwise assist or advise the Plaintiff in any way in connection with:
 - (A) any civil claim the Plaintiff might have against any institution or person who may have abused the Plaintiff;
 - (B) advising the Plaintiff on the prospects of any civil claim he might have against any institution or person who abused the Plaintiff;

(C) advising the Plaintiff on the possible quantum of any civil claim he might have against any institution or person who abused the Plaintiff,

(collectively, the **Excluded Services**);

(d) says further that the Plaintiff acknowledged, in entering into the Knowmore Retainer, that:

(i) Knowmore Legal would not provide any legal services or otherwise assist or advise him in respect of the Excluded Services;

(ii) he may be able to pursue a civil claim;

(iii) if he did pursue a civil claim, he might receive a higher financial payment than he could through the National Redress Scheme;

(iv) Knowmore Legal cannot represent the Plaintiff in connection with any civil claim;

(v) if he wished to receive legal advice or assistance in connection with pursuing a civil claim or any of the matters referred to in sub-paragraph 10(c)(iv) above, he would need to consult a civil claims lawyer who specialises in civil claims;

(vi) the financial payments (i.e., damages or compensation) the Plaintiff might receive from any institution or person who may have abused the Plaintiff may be higher than the financial payment he could receive from the National Redress Scheme;

(vii) if he accepted an offer from the National Redress Scheme, he would never be able to bring a civil claim in the future against the institution or person who abused him;

(e) otherwise denies the allegations.

Particulars

A. The terms of the Knowmore Retainer are partly in writing, and partly to be implied.

B. To the extent the terms of the Knowmore Retainer are in writing, they are contained in:

- i. a client agreement letter dated 10 December 2018 (**Holmes Client Agreement**), which was signed by the Plaintiff on 19 December 2018.
- ii. a document described as “Legal Advice” dated 10 December 2018 (**Holmes Legal Advice**).

C. To the extent the terms of the Knowmore Retainer are to be implied, they are to be implied by operation of law.

10A. At all material times, Knowmore Legal owed the Plaintiff a duty of care to exercise the care and skill of a reasonably competent lawyer in providing legal services to the Plaintiff pursuant to the terms of the Knowmore Retainer (the **Knowmore Duty**).

10B. In accordance with the terms of the Knowmore Retainer, further and alternatively in accordance with the Knowmore Duty, Knowmore Legal expressly advised and warned the Plaintiff that:

- (a) he may be able to bring a further civil claim against the institution or person that abused him, including even if he has previously received a payment from the institution;
- (b) if he did bring a further claim, he might receive a higher financial payment compared to what he could receive under the National Redress Scheme;
- (c) the Second Defendant (and subsequently, Knowmore Legal) could not act for him, could not advise him and could not assist him in relation to any civil claim the Plaintiff might have against the institution or person that abused him (and provided the details of three lawyers that could act, advise and assist him in that regard);

- (d) the consequences of accepting an offer from the National Redress Scheme was that the Plaintiff would never again be able to bring a civil claim against the institution or person that abused him

(the **First Warning Advice**).

Particulars

- A. The First Warning Advice was contained in the Holmes Client Agreement and the Holmes Legal Advice.
- B. Further particulars may be provided prior to trial.

- 10C. The Plaintiff admitted receiving and understanding the First Warning Advice including its nature and effect.

Particulars

- A. The Plaintiff signed the Client Agreement which stated, *“By signing this document you agree that you have read, understood and agree to be bound by the agreement. If there is anything about this letter you do not understand, please contact your lawyer and we will be happy to discuss it with you.”*
- B. The Plaintiff did not at any time contact Knowmore Legal to state that he did not understand anything contained in the Holmes Client Agreement or the Holmes Legal Advice.

11. As to paragraph 11, it:

- (a) admits:
- (i) the Knowmore Retainer;

- (ii) that, on or about 21 November 2019, Knowmore Legal sent an application on behalf of the Plaintiff to the National Redress Scheme for the purposes of s 19 of the NRS Act;
 - (iii) that on or about 7 September 2020, the National Redress Scheme made a written offer of redress to the Plaintiff for the purposes of s 39 of the NRS Act, comprising, *inter alia*, a redress payment to the Plaintiff in the amount of \$43,463.84, access to counselling and psychological services in Victoria as well as access to direct personal responses on behalf of the Salvation Army and DHHS (**First Offer of Redress**);
 - (iv) that, on or about 29 September 2020, the Plaintiff made an application to the National Redress Scheme to review the First Offer of Redress;
 - (v) that, on or about 26 November 2020, the National Redress Scheme made a written offer of redress to the Plaintiff for the purposes of s 39 of the NRS Act, comprising, *inter alia*, a redress payment to the Plaintiff in the amount of \$43,463.84, access to counselling and psychological services in Victoria as well as access to direct personal responses on behalf of the Salvation Army and DHHS (**Second Offer of Redress**);
 - (vi) on or about 3 December 2020, the Plaintiff accepted the Second Offer of Redress in accordance with s 42 of the NRS Act;
 - (vii) that, by reason of s 43 of the NRS Act, the Plaintiff released the Salvation Army and the State of Victoria from civil liability for abuse of the Plaintiff that is within the scope of the National Redress Scheme;
- (b) says further that, in assisting the Plaintiff with the matters referred to in subparagraph (a) above, Knowmore Legal discharged its duties under the terms of the Knowmore Retainer

- (c) otherwise denies the allegations.

Particulars

- A. As to sub-paragraph (a)(iii), Knowmore Legal refers to the letter from the National Redress Scheme to the Second Defendant dated 7 September 2020.
- B. As to sub-paragraph (a)(iv), Knowmore Legal refers to the letter from the Second Defendant to the National Redress Scheme dated 29 September 2020.
- C. As to sub-paragraph (a)(v), Knowmore Legal refers to the letter from the National Redress Scheme to the Second Defendant 26 November 2020.

12. As to paragraph 12, it:

- (a) says the allegations as pleaded:
- (i) fail to identify any material facts, point of law, or conclusion of law, and therefore do not comply with r 13.02 of the *Supreme Court (General Civil Procedure) Rules 2015 (Vic) (Rules)*;
 - (ii) are embarrassing;
- (b) reserves the right, by reason of what is pleaded in sub-paragraph (a) above, to object to any application for a discovery order made by the Plaintiff, and to object at trial to any evidence sought to be adduced, or any submission sought to be made, by the Plaintiff, in respect of paragraph 12 of the ASOC;
- (c) under cover of what is pleaded in sub-paragraph (a) above, otherwise:
- (i) does not admit the allegations;

- (ii) will rely at trial on the full text of any legislation the Plaintiff relies upon in support of its allegation of “Legislative Reform”.

13. As to paragraph 13, it:

- (a) says the allegations as pleaded:
 - (i) fail to identify any material facts, point of law, or conclusion of law, and therefore do not comply with r 13.02 of the Rules;
 - (ii) are embarrassing;
- (b) reserves the right, by reason of what is pleaded in sub-paragraph (a) above, to object to any application for a discovery order made by the Plaintiff, and to object at trial to any evidence sought to be adduced, or any submission sought to be made, by the Plaintiff, in respect of paragraph 13 of the ASOC;
- (c) otherwise denies the allegations;
- (d) refers to and repeats paragraph 10 above and says that, by the terms of the Knowmore Retainer, Knowmore Legal did not have any duty to advise the Plaintiff (or any other client) of any alleged “Improved Outcomes” (which are denied);
- (e) says further that:
 - (i) the general law regarding the approach to the assessment of damages has not changed in any material way relevant to the Plaintiff’s pleaded causes of action;
 - (ii) a plaintiff’s reasons for accepting a payment in compromise of a civil claim are not necessarily limited to a consideration of the quantum of a damages award that might be obtained at trial.

13A. As to paragraph 13A, it:

- (a) denies the allegations;
- (b) refers to and repeats paragraphs 12 and 13 above.

14. As to paragraph 14, it:
- (a) does not plead to sub-paragraph (a) as no allegations are made against it;
 - (b) in answer to sub-paragraph (b), it admits that it provided legal services to its clients which, in each instance:
 - (i) the client and Knowmore Legal entered into (or adopted, as the case may be) a retainer agreement on terms that were the same, or substantially the same, as the Knowmore Retainer and which expressly excluded the Excluded Services;
 - (ii) Knowmore Legal owed the client a duty of care, the scope of which was the same, or substantially the same, as the Knowmore Duty;
 - (iii) the client received the First Warning Advice, or advice substantially the same as the First Warning Advice;
 - (iv) the client acknowledged receiving and understanding the First Warning Advice, or advice substantially the same as the First Warning Advice;
 - (c) does not plead to sub-paragraph (c) as no allegations are made against it;
 - (d) says, in answer to sub-paragraph (d), that it denies that it had any duty to provide “Common Law Claims Advice” to any client (as that phrase is defined at sub-paragraph 14(d) of the ASOC), but otherwise admits that it did not provide advice to any client in the form of the “Common Law Claims Advice”;
 - (e) denies sub-paragraph (e) and refers to and repeats paragraphs 10B above and paragraphs 50 and 53 below;
 - (f) otherwise denies that the alleged common questions pleaded at paragraph 84 of the ASOC are common to each of the “group members” (as “group members” are defined at paragraph 14).
15. As to paragraph 15, it:
- (a) refers to and repeats paragraph 14 above;
 - (b) otherwise does not know, and therefore does not admit, the allegations.

16. As to paragraph 16, it:
- (a) does not know, and therefore does not admit, the allegations insofar as they are made against the Second Defendant;
 - (b) refers to and repeats paragraph 14(b) above;
 - (c) otherwise denies the allegations.
17. As to paragraph 17, it:
- (a) admits that it acted through its employees and agents from time to time;
 - (b) refers to and repeats paragraph 16 above;
 - (c) denies:
 - (i) the “Knowmore System”;
 - (ii) that it entered into any retainer agreement with any client comprising the “Knowmore System”.
18. As to paragraph 18, it:
- (a) refers to and repeats paragraphs 14, 16 and 17 above;
 - (b) admits that it (or the Second Defendant as the case may be) provided the following legal services to all, alternatively the majority, of its clients:
 - (i) initial advice in a telephone call with an employee solicitor, following or after the telephone call referred to in paragraph 18(c)(i) below;
 - (ii) a client agreement letter;
 - (iii) an initial letter of advice;
 - (iv) a further letter of advice in the event the National Redress Scheme made an offer of redress under s 39 of the NRS Act;
 - (c) says further that:
 - (i) Knowmore Legal admits that it facilitated a first intake telephone call with persons interested in becoming clients of it, but the information provided

by Knowmore Legal to those persons in such calls did not entail the provision of legal advice and was instead administrative in nature only;

- (ii) the documents it provided to its clients from time to time were appropriate for each client's particular circumstances;
- (iii) while there were similarities between some, but not all, of the documents and advice it provided to some of its clients, this was only in circumstances where:
 - (A) it was necessary or appropriate for the same or substantially the same legal advice, documents or services to be provided;
 - (B) the previous documents and advice provided were accurate;
 - (C) adopting such an approach reduced the risk of there being any errors in subsequent documents and advice;
- (d) otherwise denies the allegations.

19. [Paragraph 19 of the ASOC has been struck out].

20. [Paragraph 20 of the ASOC has been struck out].

21. As to paragraph 21, it:

- (a) refers to and repeats paragraphs 14, 16 and 17 above;
- (b) admits that it did not provide any client with "Common Law Claims Advice" (as that phrase is defined at paragraph 14(d) of the ASOC);
- (c) says further that it had no duty to provide any of its clients with "Common Law Claims Advice" (as that phrase is defined at paragraph 14(d) of the ASOC).

22. [Paragraph 22 of the ASOC has been struck out].

23. As to paragraph 23, it:

- (a) refers to and repeats paragraphs 14, 16, 17, and 18 above;
- (b) says further that:

- (i) the allegation that it did not “encourage” its clients to obtain the “Common Law Claims Advice” is embarrassing and inconsistent with r 13.02 of the Rules;
- (ii) further and alternatively, it had no duty to “encourage” clients to obtain “Common Law Claims Advice”;
- (iii) it advised each client that:
 - (A) it would not provide the client with the Excluded Services;
 - (B) the client could instead obtain the Excluded Services from a third party, and for that purpose provided the client with contact details of third parties who could provide the Excluded Services.
- (c) otherwise denies the allegations.

24. As to paragraph 24, it:

- (a) refers to and repeats paragraphs 16, 17, and 18 above;
- (b) says further that, in respect of each client who received an offer of redress for the purposes of s 39 of the NRS Act,
 - (i) it advised each client:
 - (A) of the consequences of accepting the offer including that any liable institution would be released from civil liability;
 - (B) that they might receive more money if they reject the offer and instead pursue a civil claim;
 - (ii) it had no duty to warn each client not to accept the offer until such time that the client obtained “Common Law Claims Advice” (as that phrase is defined at paragraph 14(d) of the ASOC);
- (c) says further that, in respect of the Plaintiff specifically, it refers to and repeats the Warning Advice, Second Warning Advice and Third Warning Advice referred to herein;
- (d) otherwise denies the allegations.

25. As to paragraph 25, it:

- (a) admits that, at all material times, Knowmore Legal held itself out as providing free legal advice and practical assistance for survivors of child sexual abuse including, *inter alia*:
 - (i) talking with survivors regarding their options for redress or compensation;
 - (ii) advice regarding making an application to the National Redress Scheme or if an offer is received from the National Redress Scheme;
 - (iii) free referral options in the event a person wishes to make a civil claim;
 - (iv) referring survivors to an appropriate service or lawyer;
 - (v) information about the payments available through victims support schemes and other schemes (i.e., other than the National Redress Scheme);
 - (vi) obtaining access to documents;
 - (vii) advice about speaking out about a survivor's experience of child sexual abuse;
 - (viii) talking with survivors regarding their options if they wish to report child abuse;
 - (ix) providing advice to survivors who have signed a costs agreement with a law firm after talking to a "claim farmer";
 - (x) providing legal advice about making a complaint about "claim farming" of personal injury cases in Queensland;
- (b) otherwise denies the allegations.

26. As to paragraph 26, it:

- (a) denies the allegations;

- (b) says further that it advised each client that, *inter alia*:
 - (i) civil claims are complex areas of law and that, if the client wished to pursue a civil claim, the client would need a third party civil lawyer to help them to get the best outcome;
 - (ii) Knowmore Legal could put the client in touch with civil lawyers who Knowmore Legal trusts, and who specialise in historic child sexual abuse claims;
 - (iii) legal fees for civil claims can be expensive, lawyers are required to first provide a 'costs agreement' before providing any services, and that the client should read the document carefully and ask the lawyer any questions before signing the document

26A. [Paragraph 26A of the FASOC has been struck out].

26B. As to paragraph 26B, it:

- (a) refers to and repeats paragraph 7(e) above and otherwise denies the allegations;
- (b) denies that it had any "financial imperative", or stood to gain financially, by refraining from providing clients with "Common Law Claims Advice" (as defined at paragraph 14(d) of the ASOC);
- (c) says further that:
 - (i) the Plaintiff has failed to identify any material facts in support of the allegation that it had a financial imperative to refrain from providing clients with "Common Law Claims Advice";
 - (ii) the allegation that Knowmore Legal had a financial imperative to conduct itself in the way that it has is scandalous, frivolous and embarrassing;

- (iii) it reserves the right, by reason of what is pleaded in sub-paragraph (ii) above, to object to any application for a discovery order made by the Plaintiff, and to object at trial to any evidence sought to be adduced, or any submission sought to be made, by the Plaintiff, in respect of paragraph 26B of the ASOC.

26C. As to paragraph 26C, it:

- (a) admits that for all, alternatively the majority, of clients, it provided them with a document headed "Legal Advice" in which Knowmore Legal provided advice and information in accordance with the terms of the Knowmore Retainer;
- (b) refers to and repeats paragraphs 14, 16 and 17 and 18 above;
- (c) otherwise denies the allegations.

Particulars

- A. Knowmore Legal does not accept as accurate, or fair, the description given at paragraph 26C of the FASOC of any "Legal Advice" letter it may have provided to any client.
- B. Knowmore Legal will rely at trial on the full content of any document it provided to any client.

26D. As to paragraph 26D it:

- (a) admits that for all, alternatively the majority, of clients, it provided them with a document headed "Client Agreement for Legal Assistance" in which Knowmore Legal set out the terms on which it was willing to assist the client, which terms were in accordance with the terms of the Knowmore Retainer;
- (b) refers to and repeats paragraph 18 above;
- (c) otherwise denies the allegations.

Particulars

- A. Knowmore Legal does not accept as accurate, or fair, the description given at paragraph 26D of any “Client Agreement” letter it may have provided to any client.
- B. Knowmore Legal will rely at trial on the full content of any document it provided to any client.

26E. As to paragraph 26E, it:

- (a) admits that it did not advise any clients of the “Improved Outcomes” as defined at paragraph 13 of the ASOC, but which Knowmore Legal denies);
- (b) otherwise:
 - (i) refers to and repeats paragraph 13 above and denies the “Improved Outcomes” (as defined at paragraph 13 of the ASOC);
 - (ii) refers to and repeats paragraphs 13(d), 14(b) and 16 above and says that it had no duty to advise clients of the “Improved Outcomes”;
 - (iii) refers to and repeats paragraph 17 above and denies the “Knowmore System” (as defined at paragraph 17 of the ASOC);
- (c) otherwise denies the allegations.

26F. As to paragraph 26F, it:

- (a) refers to and repeats paragraphs 12, 14(b) and 16 above;
- (b) refers to and repeats paragraph 17 above and denies the “Knowmore System” (as defined at paragraph 17 of the ASOC);
- (c) otherwise does not admit the allegations.

26G. As to paragraph 26G, it:

- (a) refers to and repeats paragraphs 14(b) and 16 above and says that that the Knowmore Retainer expressly excluded the Excluded Services;

- (b) otherwise denies the allegations.
27. It admits paragraph 27.
28. It does not know, and therefore does not admit, paragraph 28.
29. It does not know, and therefore does not admit, paragraph 29
30. It does not know, and therefore does not admit, paragraph 30.
31. It admits paragraph 31.
32. It does not know, and therefore does not admit, paragraph 32.
33. It does not know, and therefore does not admit, paragraph 33.
34. As to paragraph 34, it:
- (a) admits that:
 - (i) the Plaintiff instructed Knowmore Legal that he was sexually abused by Mr Beyer between approximately 1974 and 1976, whilst the Plaintiff was a minor while resident at the Bayswater Boys Home;
 - (ii) Knowmore Legal subsequently obtained documentation in respect of the Plaintiff's prior accounts of the abuse;
 - (b) otherwise does not know, and therefore does not admit, the allegations.
35. As to paragraph 35, it:
- (a) admits that:
 - (i) the Plaintiff instructed Knowmore Legal that he was sexually and physically abused by Mr McKenzie between approximately 1974 and 1976, whilst the Plaintiff was a minor while resident at the Bayswater Boys Home;
 - (ii) Knowmore Legal subsequently obtained documentation in respect of the Plaintiff's prior accounts of the abuse;
 - (b) otherwise does not know, and therefore does not admit, the allegations.

36. It does not know, and therefore does not admit, paragraph 36.
37. It does not know, and therefore does not admit, paragraph 37.
38. It does not ~~know, and therefore does not~~ admit, paragraph 38.
39. It does not ~~know, and therefore does not~~ admit, paragraph 39.
40. It does not ~~know, and therefore does not~~ admit, paragraph 40.
41. It does not ~~know, and therefore does not~~ admit, paragraph 41.
42. Subject to production of the Deed between the Plaintiff and the Salvation Army and reference to its full terms and effects, it admits paragraph 42.
43. It admits paragraph 43.
44. Subject to production of the Deed between the Plaintiff and the State of Victoria and reference to its full terms and effects, it admits paragraph 44.
45. It admits paragraph 45.
46. It does not know, and therefore does not admit, paragraph 46.
47. As to paragraph 47, it:
 - (a) refers to and repeats paragraphs 10-10C above;
 - (b) otherwise admits the allegations.
- 47A. As to paragraph 47A it:
 - (a) admits that, in the Holmes Legal Advice, Knowmore Legal:
 - (i) recorded instructions provided by the Plaintiff during a telephone call apparently held on 22 November 2018;
 - (ii) was consistent with the Knowmore Retainer;
 - (iii) provided the Plaintiff advice regarding the National Redress Scheme;
 - (iv) advised the Plaintiff that it could not provide the Excluded Services;

- (v) advised the Plaintiff that civil claims are complex areas of law and that the Plaintiff would need a third party civil lawyer to help them to get the best outcome;
 - (vi) provided the Plaintiff with contact details of law firms who specialise in historic child sexual abuse and who would be able to assist him in the event he wished to make a civil claim;
 - (vii) advised the Plaintiff that legal fees for civil claims can be expensive, lawyers are required to first provide a 'costs agreement' before providing any services, and that the client should read the document carefully and ask the lawyer any questions before signing the document;
- (b) refers to and repeats paragraphs 10-10C above;
- (c) otherwise denies the allegations.

Particulars

- A. Knowmore Legal does not accept as accurate, or fair, the description given at paragraph 47A of the ASOC of the Holmes Legal Advice.
- B. Knowmore Legal will rely at trial on the full content of the Holmes Legal Advice.

47B. A to paragraph 47B it:

- (a) admits that the Holmes Client Agreement:
 - (i) set out the terms in which Knowmore Legal was willing to assist the Plaintiff, which terms were in accordance with the Knowmore Retainer;
 - (ii) expressly stated that the Second Defendant would not provide the Excluded Services;
- (b) refers to and repeats paragraphs 10-10C above;
- (c) otherwise denies the allegations.

Particulars

- A. Knowmore Legal does not accept as accurate, or fair, the description given at paragraph 47B of the ASOC of the Holmes Client Agreement.
- B. Knowmore Legal will rely at trial on the full content of the Holmes Client Agreement.

47C. As to paragraph 47C it:

- (a) does not know, and therefore does not admit, sub-paragraph (a) (which pertains to the knowledge of the Second Defendant only);
- (b) says as follows to sub-paragraph (b):
 - (i) refers to and repeats paragraphs 10-10C, 12, 13, and 47B above;
 - (ii) otherwise does not know, and therefore does not admit, what the Second Defendant knew from time to time.

48. [Paragraph 48 of the ASOC has been struck out].

49. It admits paragraph 49.

50. As to paragraph 50, it:

- (a) admits that, on or about 7 September 2020:
 - (i) the Plaintiff participated in a telephone call with a representative of the National Redress Scheme identified as "Sean", and Andrea Pearson, an employed solicitor of "Knowmore Legal Service", wherein the National Redress Scheme foreshadowed making an offer of redress to the Plaintiff under s 39 of the NRS Act in the total amount of \$43,463;
 - (ii) the Second Defendant sent the Plaintiff a letter with the heading "Your National Redress Offer", which stated, as follows (emphasis in original):

What happens if you accept this offer

If you decide to accept the offer of redress:

1. **Release of Responsible Institution:** *You will release The Salvation Army (Victoria) Property Trust as part of The Salvation Army and the Department of Health and Human Services, their associates and officials of each from civil liability (other than the people who abused). This means you will not be able to bring or continue any civil legal proceedings against The Salvation Army (Victoria) Property Trust as part of The Salvation Army or the Department of Health and Human Services, their associates and officials in each in relation to the abuse you experienced...*

If you decide to decline this offer:

...

3. **Civil legal proceedings:** *You will be able to bring or continue any civil legal proceedings against The Salvation Army (Victoria) Property Trust or the Department of Health and Human Services, their officials and any associates in relation to the abuse you experienced.*

(the **Second Warning Advice**).

(iii) Ms Pearson, a solicitor of "Knowmore Legal Service", conducted a telephone conference with the Plaintiff wherein Ms Pearson advised the Plaintiff, *inter alia*, that if he accepted the offer that was made by the National Redress Scheme, he would release the institutions from any further civil liability (but not the abusers), and no further claims could be made against the institutions.

(b) otherwise denies the allegations.

Particulars

A. Knowmore Legal will rely at trial upon the full terms of the letter sent to the Plaintiff on or about 7 September 2020.

B. File note dated 7 September 2020, headed "*Offer received – Advice file note*".

51. As to paragraph 51:

- (a) admits that there was a telephone discussion between the Plaintiff and Andrea Pearson, an employee solicitor of "Knowmore Legal Service", on 8 September 2020;
- (b) says further that the content of the telephone discussion is recorded in a file note taken by Ms Pearson dated 8 September 2020;
- (c) otherwise denies the allegations in paragraph 51.

52. It admits paragraph 52.

53. As to paragraph 53, it:

- (a) admits the allegations;
- (b) says further that, on 24 November 2020, Knowmore Legal Service sent the Plaintiff a letter which stated (emphasis in original):

We confirm that a new Independent Decision Maker has reviewed your application to the Scheme and has decided to affirm the decision of the first Independent Decision Maker. This means that your offer remains the same...

1. Accepting the offer (one, two or all three parts of the offer)

If you decided to accept one, two or all three parts of the offer, you will need to sign an Acceptance Document. Once this Document has been signed, you will not be able to begin or continue any civil legal proceedings against the Salvation Army Property Trust (Victoria) and the Department of Health and Human Services (Victoria), their associates or officials in relation to the abuse you experienced.

This is an important legal right that you will be giving up

(the **Third Warning Advice**).

- (c) says further that, on or about 24 November 2020, the Plaintiff instructed Knowmore Legal that he wished to accept the offer of redress and he understood that, by accepting the offer, he would not be able to bring any civil legal proceedings against the Salvation Army Property Trust (Victoria) and the Department of Health and Human Services (Victoria), their associates or officials in relation to the abuse he experienced.

Particulars

- A. Letter from Knowmore Legal to the Plaintiff dated 24 November 2020, a copy of which is available for inspection.
- B. The instructions referred to in sub-paragraph (c) are referred to in the letter.

53A. Each of the First Offer of Redress and the Second Offer of Redress expressly warned the Plaintiff that, by accepting the offer of redress contained therein:

- (a) the Plaintiff would release the Salvation Army Property Trust (Victoria) and the Department of Health and Human Services (Victoria), their associates and officials from civil liability (other than the person who abused him);
- (b) the Plaintiff would not be able to bring or continue any civil legal proceedings against the Salvation Army Property Trust (Victoria) and the Department of Health and Human Services (Victoria), their associates and officials in relation to the abuse he experienced;
- (c) if the Plaintiff declined the offer, he would be able to bring or continue any civil legal proceedings against the Salvation Army Property Trust (Victoria) and the Department of Health and Human Services (Victoria), their associates and officials in relation to the abuse he experienced.

(respectively, the **First NRS Warning** and the **Second NRS Warning**).

54. It admits paragraph 54.

54A. It admits paragraph 54A.

55. It admits paragraph 55.

56. As to paragraph 56, it:

- (a) in answer to sub-paragraph (a), refers to and repeats paragraphs 14(b), 21, 24(b)(ii) and 26B(b) above, and, against what is there pleaded, admits that it did not provide the Plaintiff with the “Common Law Claims Advice”;
- (b) in answer to sub-paragraph (b), refers to and repeats paragraphs 13(d), 14(b) and 26E(b) above and, against what is there pleaded, admits that it did not advise the Plaintiff of the “Improved Outcomes”;
- (c) in answer to sub-paragraph (c), refers to and repeats paragraphs 12, 14(b) and 16 above and, against what is there pleaded, does not admit the allegations;
- (d) in answer to in sub-paragraph (d), refers to and repeats paragraphs 14(b), 21, 23, 24(b)(ii) and 26B(b) above, and, against what is there pleaded, denies the allegations;
- (e) [sub-paragraph 56(e) of the ASOC has been struck out];
- (f) in answer to sub-paragraph (f), refers to and repeats paragraph 26B above and, on that basis, denies the allegations;
- (g) in answer to sub-paragraph (g), refers to and repeats paragraph 14(b) above and, on that basis, denies the allegations;
- (h) in answer to sub-paragraph (h):
 - (i) refers to and repeats paragraph 24 above and, on that basis, denies the allegations;
 - (ii) it refers to and repeats the First Warning Advice, the Second Warning Advice, the Third Warning Advice, and the First NRS Warning and the Second NRS Warning;
- (i) in answer to sub-paragraph (i), refers to and repeats paragraph 26 above and, on that basis, denies the allegations.

57. As to paragraph 57, it:

- (a) does not know what the Plaintiff was aware or unaware of from time to time, and therefore does not admit, the allegations;

- (b) in further answer to sub-paragraph (a), refers to and repeats paragraph 13 above and, on that basis, denies the allegations.

57A. [Paragraph 57A of the FASOC has been struck out].

57B. As to paragraph 57B, it:

- (a) admits that the Second Defendant entered into a retainer agreement with the Plaintiff, comprised by the terms of the Knowmore Retainer;
- (b) refers to and repeats paragraphs 10-10C above and says that Knowmore Legal adopted and agreed to be bound by the terms of the Knowmore Retainer;
- (c) otherwise denies the allegations.

58. As to paragraph 58, it:

- (a) in answer to sub-paragraph (a), refers to and repeats paragraph 25 above and otherwise denies the allegations;
- (b) in answer to sub-paragraph (b), refers to and repeats paragraph 7(e) above and otherwise denies the allegations;
- (c) in answer to sub-paragraph (c), refers to and repeats paragraph 37 above and otherwise denies the allegations;
- (d) in answer to sub-paragraph (d), refers to and repeats paragraph 37 above and otherwise denies the allegations;
- (e) in answer to sub-paragraph (e), it admits that it knew that Holmes was not legally qualified but denies that it knew that he was not “highly educated”;
- (f) in answer to sub-paragraph (f), it refers to and repeats paragraphs 10-10C above and otherwise denies the allegations;
- (g) in answer to sub-paragraph (g), it refers to and repeats paragraph 10-10C above and otherwise denies the allegations.
- (h) [the balance of paragraph 58 has been struck out].

58A. It admits paragraph 58A.

59. As to paragraph 59, it:

- (a) admits the Knowmore Duty;
- (b) otherwise denies the allegations;
- (c) says further that, in respect of the allegations contained in sub-paragraphs (b) and (c):
 - (i) they are embarrassing in that, *inter alia*, the alleged duties are not duties known to law;
 - (ii) Knowmore Legal reserves the right, by reason of what is pleaded in sub-paragraph (i) above, to object to any application for a discovery order made by the Plaintiff, and to object at trial to any evidence sought to be adduced, or any submission sought to be made, by the Plaintiff, in respect of paragraphs 59(b) and 59(c) of the ASOC.

[there is no 59A pleaded in the ASOC]

59B. As to paragraph 59B, it:

- (a) admits the Knowmore Duty;
- (b) otherwise denies the allegations.

59C. As to paragraph 59C, it:

- (a) says that:
 - (i) the allegations fail to identify any material facts, point of law, or conclusion of law, and therefore do not comply with r 13.02 of the Rules;
 - (ii) the allegations are embarrassing;
 - (iii) Knowmore Legal reserves the right, by reason of what is pleaded in sub-paragraphs (i) and (ii) above, to object to any application for a discovery order made by the Plaintiff, and to object at trial to any evidence sought to be adduced, or any submission sought to be made, by the Plaintiff, in respect of paragraph 59C of the ASOC;
- (b) under cover what is pleaded in sub-paragraph (a) above, denies the allegations.

59D. As to paragraph 59D, it:

- (a) refers to and repeats paragraphs 10-10C, 12, 13, 17-26G, 58 and 59C above;
- (b) otherwise denies the allegations;
- (c) says further that the reference to “Legislative Improvements” is not defined in the ASOC.

59E. As to paragraph 59E, it:

- (a) refers to and repeats paragraph 59C above;
- (b) otherwise denies the allegations.

59F. As to paragraph 59F, it:

- (a) refers to and repeats paragraphs 17-26G and 59-59E above;
- (b) otherwise denies the allegations;
- (c) says further that:
 - (i) the allegations fail to identify any material facts, point of law, or conclusion of law, and therefore do not comply with r 13.02 of the Rules;
 - (ii) the allegations are embarrassing;
 - (iii) Knowmore Legal reserves the right, by reason of what is pleaded in subparagraphs (i) and (ii) above, to object to any application for a discovery order made by the Plaintiff, and to object at trial to any evidence sought to be adduced, or any submission sought to be made, by the Plaintiff, in respect of paragraph 59F of the ASOC.

60. As to paragraph 60, it:

- (a) refers to and repeats paragraphs 10-10C, 12, 13, 17-26G, 58-59F above;
- (b) otherwise denies the allegations;

61. As to paragraph 61, it:
- (a) refers to and repeats paragraphs 10-10C, 12, 13, 17-26G, and 58-60 above;
 - (b) in response to sub-paragraph (c) specifically, it refers to and repeats First Warning Advice, the Second Warning Advice, the Third Warning Advice, and the First NRS Warning and the Second NRS Warning;
 - (c) otherwise denies the allegations.
62. As to paragraph 62, it:
- (a) refers to and repeats paragraphs 10-10C, 12, 13, 17-26G, and 58-60 above, and the First Warning Advice, the Second Warning Advice, the Third Warning Advice, and the First NRS Warning and the Second NRS Warning;
 - (b) otherwise does not admit the allegations.
63. As to paragraph 63, it:
- (a) admits that:
 - (i) by accepting the Offer of Redress on or about 3 December 2020, the Plaintiff, by reason of s 43 of the NRS Act, released the Salvation Army and the State of Victoria from civil liability for abuse of the Plaintiff that is within the scope of the National Redress Scheme;
 - (ii) by accepting the Offer of Redress, s 27Q(2) of the *Limitation of Actions Act 1958* (Vic) does not apply to the deeds referred to at paragraphs 42 and 44 of the ASOC;
 - (b) otherwise denies the allegations.
64. As to paragraph 64, it:
- (a) refers to and repeats paragraph 63 above;
 - (b) says further that prior to accepting the Offer of Redress, the Plaintiff had the chance described at paragraph 64 of the ASOC, but in accepting the Offer of Redress, he voluntarily elected to extinguish or otherwise abandon that chance;
 - (c) otherwise denies the allegations.

65. As to paragraph 65, it:
- (a) says the allegations as pleaded are embarrassing;
 - (b) under cover of what is pleaded in sub-paragraph (a) above, denies the allegations.
66. As to paragraph 66, it:
- (a) refers to and repeats paragraphs 10-10C and 61 above;
 - (b) in response to sub-paragraph (c) specifically, it refers to and repeats the First Warning Advice, the Second Warning Advice, the Third Warning Advice, and the First NRS Warning and the Second NRS Warning;
 - (c) otherwise denies the allegations.
67. As to paragraph 67, it:
- (a) refers to and repeats paragraph 66 above;
 - (b) further and alternatively, in the event the Court finds that Knowmore Legal acted in breach of the Knowmore Retainer, alternatively the “Retainer” defined at paragraph 10 of the ASOC, it denies the allegations.
68. It denies paragraph 68.
- 68A. As to paragraph 68A, it:
- (a) refers to and repeats paragraphs 7(e) and 26B above;
 - (b) otherwise denies the allegations.
- 68B. As to paragraph 68B, it:
- (a) refers to and repeats paragraphs 7(e) and 26B above;
 - (b) otherwise denies the allegations.
- 68C. As to paragraph 68C, it:
- (a) refers to and repeats paragraphs 7(e) and 26B above;
 - (b) otherwise denies the allegations.

68D. As to paragraph 68D, it:

- (a) admits sub-paragraph (a);
- (b) admits sub-paragraph (b);
- (c) denies sub-paragraph (c).

68E. As to paragraph 68E, it:

- (a) refers to and repeats paragraphs 7(e), 10-10C, and 26B above;
- (b) otherwise denies the allegations.

68F. As to paragraph 68F, it:

- (a) refers to and repeats paragraph 68E above;
- (b) further and alternatively, in the event the Court finds that Knowmore Legal breach any fiduciary duties it owed the Plaintiff, it denies the allegations.

68G. It denies paragraph 68G.

68H. It denies paragraph 68H.

69. As to paragraph 69, it:

- (a) denies the “Knowmore System” (see paragraphs 17-26G above) and, on that basis, denies the allegations;
- (b) otherwise admits that, in respect of clients who retained Knowmore Legal to provide legal services, such clients were people who alleged that:
 - (i) they had suffered child abuse in an institutional setting;
 - (ii) they had suffered a personal injury as a result of the child abuse.

70. As to paragraph 70, it:

- (a) denies the “Knowmore System” (see paragraphs 17-26G above) and, on that basis, denies the allegations;

- (b) otherwise says that, in respect of clients who retained Knowmore Legal to provide legal services:
 - (i) admits sub-paragraphs (a)-(e) insofar as such clients had, in fact, the characteristics referred to;
 - (ii) otherwise does not know, and therefore does not admit, whether clients who did not possess the characteristics referred to at sub-paragraphs (a)-(e) were or were not “likely” to have those characteristics.

71. As to paragraph 71, it:

- (a) refers to and repeats paragraph 14(b) above;
- (b) otherwise denies the allegations.

72. As to paragraph 72, it:

- (a) refers to and repeats paragraph 14(b) above;
- (b) otherwise denies the allegations.

73. As to paragraph 73, it:

- (a) in answer to sub-paragraph (a), refers to and repeats paragraph 25 above and otherwise denies the allegations;
- (b) in answer to sub-paragraph (b), refers to and repeats paragraph 7(e) above and otherwise denies the allegations;
- (c) in answer to sub-paragraph (c), says that:
 - (i) in respect of clients who it knew had the characteristics referred to in sub-paragraphs (c)(i)-(c)(ix), it admits that it knew of such characteristics;
 - (ii) in respect of clients who it did not know had any of the characteristics referred to in sub-paragraphs (c)(i)-(c)(ix), it denies that it knew, or ought to have known, that such clients had or were likely to have, such characteristics.

74. As to paragraph 74, it:
- (a) refers to and repeats paragraph 14(b) above;
 - (b) otherwise denies the allegations.
- 74A. As to paragraph 74A, it:
- (a) refers to and repeats paragraph 14(b) above;
 - (b) otherwise denies the allegations.
- 74B. As to paragraph 74B, it:
- (a) refers to and repeats paragraph 59C above;
 - (b) otherwise denies the allegations.
- 74C. As to paragraph 74C, it:
- (a) refers to and repeats paragraphs 10-10C, 14(b), 17-26G, 59C, and 73(c) above;
 - (b) otherwise denies the allegations.
- 74D. As to paragraph 74D, it:
- (a) refers to and repeats paragraphs 10-10C, 14(b), 17-26G, 59C, 73(c) and 74C above;
 - (b) otherwise denies the allegations.
- 74E. As to paragraph 74E, it:
- (a) refers to and repeats paragraphs 10-10C, 14(b), 17-26G, and 59F above;
 - (b) otherwise denies the allegations.
75. As to paragraph 75, it:
- (a) refers to and repeats paragraphs 10-10C, 14(b), 17-26G and 59F above;
 - (b) in response to sub-paragraph (c) specifically, it refers to and repeats the First Warning Advice, the Second Warning Advice, the Third Warning Advice, and the First NRS Warning and the Second NRS Warning;

(c) otherwise denies the allegations.

76. As to paragraph 76, it:

(a) refers to and repeats paragraphs 10-10C, 14(b), 17-26G, 59F above and 75 above;

(b) says further that:

(i) the Plaintiff has not identified the material facts in support of the pleaded allegations such that paragraph 76 does not comply with r 13.02 of the Rules;

(ii) the allegations are embarrassing;

(iii) Knowmore Legal reserves the right, by reason of what is pleaded in sub-paragraphs (i) and (ii) above, to object to any application for a discovery order made by the Plaintiff, and to object at trial to any evidence sought to be adduced, or any submission sought to be made, by the Plaintiff, in respect of paragraph 76 of the ASOC;

(c) under cover of what is pleaded in sub-paragraph (b) above, otherwise:

(i) denies the allegations in sub-paragraphs (aa), (d), (e) and (f);

(ii) in response to sub-paragraph (d) specifically, it refers to and repeats the First Warning Advice, the Second Warning Advice, the Third Warning Advice, and the First NRS Warning and the Second NRS Warning;

(iii) does not know, and therefore does not admit, sub-paragraphs (ab), (a), (b) and (c).

77. As to paragraph 77, it:

(a) refers to and repeats paragraph 76 above;

(b) says further that:

(i) the Plaintiff has not identified the material facts in support of the allegation such that paragraph 77 does not comply with r 13.02 of the Rules;

- (ii) the allegations are embarrassing;
 - (iii) Knowmore Legal reserves the right, by reason of what is pleaded in sub-paragraphs (i) and (ii) above, to object to any application for a discovery order made by the Plaintiff, and to object at trial to any evidence sought to be adduced, or any submission sought to be made, by the Plaintiff, in respect of paragraph 77 of the ASOC.
- (c) Under cover of what is pleaded in sub-paragraph (b) above, otherwise does not know, and therefore does not admit, the allegations.

78. As to paragraph 78, it:

- (a) refers to and repeats paragraph 77 above;
- (b) admits that:
 - (i) where any group member has accepted an offer of redress in accordance with s 42 of the NRS Act then, by reason of s 43 of the NRS Act, such group members have released and forever discharged every released institution or official from civil liability for abuse of the group member that is within the scope of the National Redress Scheme;
 - (ii) where any group member has accepted an offer of redress in accordance with s 42 of the NRS Act then s 27Q of the *Limitation of Actions Act 1958* (Vic) does not apply to:
 - (A) any deed of release or accepted offer of redress under the NRS Act; or
 - (B) any settlement that has been taken into account in any deed of release or accepted offer of redress under the NRS Act.
- (c) otherwise denies the allegations.

79. As to paragraph 79, it:

- (a) refers to and repeats paragraph 77 above;
- (b) otherwise does not know, and therefore does not admit, the allegations.

80. As to paragraph 80, it:
- (a) refers to and repeats paragraph 77 above;
 - (b) otherwise denies the allegations.
81. As to paragraph 81, it:
- (a) refers to and repeats paragraphs 10-10C, 14(b), 17-26G, and 75-80 above;
 - (b) in response to sub-paragraph (c) specifically, it refers to and repeats First Warning Advice, the Second Warning Advice, the Third Warning Advice, and the First NRS Warning and the Second NRS Warning;
 - (c) otherwise denies the allegations.
82. As to paragraph 82, it:
- (a) refers to and repeats paragraphs 10-10C, 14(b), 17-26G, and 75-81 above;
 - (b) says further that:
 - (i) the Plaintiff has not identified the material facts in support of the allegation such that paragraph 82 does not comply with r 13.02 of the Rules;
 - (ii) the allegations are embarrassing;
 - (iii) Knowmore Legal reserves the right, by reason of what is pleaded in sub-paragraphs (i) and (ii) above, to object to any application for a discovery order made by the Plaintiff, and to object at trial to any evidence sought to be adduced, or any submission sought to be made, by the Plaintiff, in respect of paragraph 82 of the ASOC.
 - (c) further and alternatively, and under cover of what is pleaded in sub-paragraph (b) above, in the event the Court finds that Knowmore Legal acted in breach of the Knowmore Retainer, alternatively the “Group Member Retainers” defined at paragraph 71 of the ASOC, it does not know, and therefore does not admit, the allegations.

83. As to paragraph 83, it:
- (a) refers to and repeats paragraph 82 above and, on that basis, denies the allegations;
 - (b) further and alternatively, and under cover of what is pleaded in paragraph 82(b) above, does not know and therefore does not admit the allegations.
- 83A. It does not plead to paragraph 83A as paragraph 83A does not contain any allegations of material facts, points of law or conclusions of law.
- 83B. As to paragraph 83B, in respect of each of its clients, it:
- (a) admits sub-paragraph (a);
 - (b) admits sub-paragraph (b);
 - (c) denies sub-paragraph (c).
- ~~says, in answer to sub-paragraph (c), that:~~
- ~~(i) — it refers to and repeats paragraphs 10–10C above;~~
 - ~~(ii) — otherwise denies the allegations.~~
84. As to paragraph 84, it:
- ~~(a) — denies that the claims of the Plaintiff and the group members, as pleaded, give rise to substantial common issues of law or fact;~~
 - (a) does not accept that the common questions proposed by the plaintiff are appropriate and says further that the common questions should be the subject of further submissions by the parties and should be settled by the Court;
 - (b) says further that:
 - (i) in the prayer for relief, the Plaintiff claims damages on his own behalf and on behalf of group members;
 - (ii) the Plaintiff has not identified whether he seeks an order under s 33Z(1)(e), 33Z(1)(f) or 33Z(1)(g) of the *Supreme Court Act 1986* (Vic) (**SCA**);

- (iii) to the extent the Plaintiff seeks an order under s 33Z(1)(e) of the SCA, the common questions, as drafted at paragraph 84 of the ASOC, will not enable the Court to determine an award of damages for group members, sub-group members or individual group members without conducting a full trial for each group member's individual claim for loss and damage;
- (iv) the Court will not be able to make an award of damages under s 33Z(1)(f) or an award of monetary relief under s 33Z(1)(g) because a reasonably accurate assessment of the total amount to which group members will be entitled under the judgment will not be possible without conducting a full trial for each group member's individual claim for loss and damage.

Contributory negligence

85. Further and alternatively, if Knowmore Legal's conduct is found to have caused the Plaintiff to suffer loss and damage on the basis pleaded in the ASOC (which is denied), such loss and damage was suffered, at least in part, as a result of the Plaintiff's failure to take reasonable care, and any damages recoverable from Knowmore should be reduced pursuant to section 26(1) of the *Wrongs Act 1958* (Vic) (the ***Wrongs Act***) having regard to the Plaintiff's responsibility for his loss and damage.

Particulars

- A. The Plaintiff did not follow or heed the First Warning Advice, the Second Warning Advice, the Third Warning Advice, the First NRS Warning or the Second NRS Warning.
- B. The Plaintiff made an election to accept the Second Offer of Redress despite being expressly on notice of the First Warning Advice, the Second Warning Advice, the Third Warning Advice, the First NRS Warning or the Second NRS Warning.
- C. Further particulars may be provided prior to trial.

Proportionate liability

86. Further and alternatively, if Knowmore Legal is liable to the Plaintiff for any loss and damage on the basis pleaded in the ASOC (which is denied), then:
- (a) insofar as the claims made by the Plaintiff against Knowmore Legal in this proceeding are claims for economic loss in an action for damages arising from a failure to take reasonable care within the meaning of section 24AF of the *Wrongs Act*, then they are apportionable claims as defined in section 24AE of the *Wrongs Act*;
 - (b) the Second Defendant is a concurrent wrongdoer in relation to the claims for economic loss made against Knowmore Legal within the meaning of section 24AH of the *Wrongs Act*, having caused the same loss or damage that is the subject of the claims by the Plaintiff;
 - (c) in the premises, pursuant to section 24AI of the *Wrongs Act*, any liability Knowmore Legal may have to the Plaintiff (which is denied) must be limited to an amount reflecting the proportion of loss and damage that the Court considers just having regard to the extent of Knowmore Legal's responsibility for that loss and damage and the Court may give judgment against Knowmore Legal for no more than that amount.

Particulars

- A. For apportionment purposes only, Knowmore
Legal relies on the allegations made against the
Second Defendant in the ASOC.

Date: ~~14 February 2025~~ 23 February 2026

Amendments by Ben Petrie
Counsel for the First Defendant



K&L Gates
Solicitors for the First Defendant