

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION

S CI 2009 4788

BETWEEN

CAROL ANN MATTHEWS

Plaintiff

and

**AUSNET ELECTRICITY SERVICES PTY LTD
(formerly SPI ELECTRICITY PTY LTD)
(ACN 064 651 118)
and others according to the Schedule**

Defendants

AND BETWEEN

**AUSNET ELECTRICITY SERVICES PTY LTD
(formerly SPI ELECTRICITY PTY LTD)
(ACN 064 651 118)**

Plaintiff by Counterclaim

And

**ACN 060 674 580 PTY LTD
and others according to the Schedule**

Defendants by Counterclaim

AND BETWEEN

ACN 060 674 580 PTY LTD

Plaintiff by Counterclaim

And

**AUSNET ELECTRICITY SERVICES PTY LTD
(formerly SPI ELECTRICITY PTY LTD)
(ACN 064 651 118)
and others according to the Schedule**

Defendants by Counterclaim

GENERAL FORM OF ORDER

JUDGE:

The Honourable Justice J Forrest

DATE MADE:

5 November 2015



ORIGINATING PROCESS: Amended Writ

HOW OBTAINED: On the papers

ATTENDANCE: Nil

OTHER MATTERS: By email and telephone call of 5 November 2015, Maurice Blackburn advised that it did not serve the subpoena under paragraph 2 of the orders of 20 October 2015 authenticated 29 October 2015 within time and seeks leave to issue the same subpoena albeit with a later deadline for service.

THE COURT ORDERS THAT:

1. The Scheme Administrator has leave to issue a subpoena in the form set out in Annexure A to these orders.

DATE AUTHENTICATED:

5 November 2015


The Hon. Justice J. Forrest



IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMON LAW DIVISION



No. 4788 of 2009

BETWEEN:

CAROL ANN MATTHEWS

Plaintiff

and

AUSNET ELECTRICITY SERVICES PTY LTD
(ACN 064 651 118)
& ORS

Defendants

(by original proceeding)

AND BETWEEN:

AUSNET ELECTRICITY SERVICES PTY LTD
(ACN 064 651 118)

Plaintiff by Counterclaim

and

ACN 060 674 580 PTY LTD
& ORS

Defendants by Counterclaim

(by counterclaim)

FORM 42AA
SUBPOENA FOR PRODUCTION TO PROTHONOTARY

Date of Document:

5 November 2015

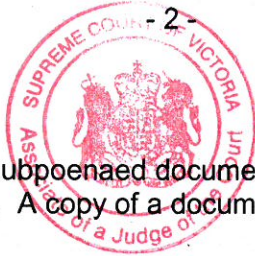
Filed on behalf of:

The Scheme Administrator

Prepared by:
Maurice Blackburn, Lawyers
c/- Level 10, 456 Lonsdale Street
Melbourne Vic 3000

Solicitor's Code: 564
Tel: 03 9605 2700
DX: 466 Melbourne
Ref: RW/3052492

TO: The Proper Officer
Victorian Bushfire Appeal Fund
Department of Health & Human Services



You may produce copies of any subpoenaed documents, unless the subpoena specifically requires you to produce originals. A copy of a document may be—

- (a) a photocopy; or
- (b) in PDF format on a CD-Rom.

You must complete the declaration below, attach it to the subpoena or a copy of the subpoena and return them with the documents or things you provide to the Court under the subpoena.

If you declare that the material you produce is copies of documents, the Prothonotary may, without further notice to you, destroy the copies after the expiry of a period of four months from the conclusion of the proceeding or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal.

If the material you produce to the Court is or includes any original document, the Court will return all of the material to you at the address specified by you in the Declaration below.

DECLARATION BY ADDRESSEE (SUBPOENA RECIPIENT)

[tick the relevant option below, provide your address as appropriate, sign and date]

- All** of the material I am providing to the Court in compliance with the attached subpoena is copies of documents. I acknowledge that the Court will destroy the copies once they are no longer required, without further notice to me.

- Some or all** of the material I am providing to the Court in compliance with the attached subpoena is an **original** document. Once the material is no longer required, all of the material should be returned to me at the following address—

[insert address for return of material].

Date:

.....
Signature of Addressee

.....
Name of Addressee



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Plaintiff

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**AUSNET ELECTRICITY SERVICES PTY LTD
(ACN 064 651 118)
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Defendants

(by original proceeding)

AND BETWEEN:

**AUSNET ELECTRICITY SERVICES PTY LTD
(ACN 064 651 118)**

Plaintiff by Counterclaim

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& ORS**

Defendants by Counterclaim

(by counterclaim)

**FORM 42AA
SUBPOENA FOR PRODUCTION TO PROTHONOTARY**

Date of Document:

5 November 2015

Filed on behalf of:

The Scheme Administrator

Prepared by:

Maurice Blackburn, Lawyers
c/- Level 10, 456 Lonsdale Street
Melbourne Vic 3000

Solicitor's Code: 564
Tel: 03 9605 2700
DX: 466 Melbourne
Ref: RW/3052492

TO: The Proper Officer
Victorian Bushfire Appeal Fund
Department of Health & Human Services

OF: 50 Lonsdale Street
Melbourne Victoria 3000



YOU ARE ORDERED:

to produce to the Prothonotary this subpoena or a copy of it and the documents or things specified in the Schedule.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

The last day for service of this subpoena is: **20 November 2015**

(See Note 1)

Please read Notes 1 to 18 at the end of this subpoena.

Date: 5 November 2015

Issued at the request of the Scheme Administrator, whose address for service is:

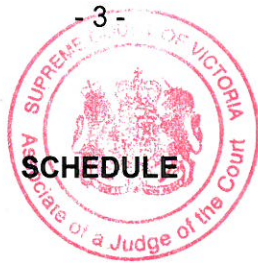
C/- Maurice Blackburn Lawyers
Attn: Andrew Watson
Level 10, 456 Lonsdale Street
MELBOURNE VIC 3000
Ref: 3052492

You must comply with this subpoena by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Prothonotary at the address below so that they are received on or before the date for production specified below.

Date for production: **18 December 2015**

The address of the Prothonotary to which the subpoena (or copy) and documents or things may be delivered or sent:

**The Prothonotary
Supreme Court of Victoria
Level 2, 436 Lonsdale Street
MELBOURNE VIC 3000**



Definitions:

The documents and things you must produce are as follows:

All assessment reports, medico legal reports, medical reports, medical records and other like documentation held by the Victorian Bushfire Appeal Fund in respect of the people enclosed in the attached list.



Last day for service

1. Subject to Note 2, you need not comply with the subpoena unless it is served on you on or before the day specified in the subpoena as the last day for service of the subpoena.
2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last day for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a corporation

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Document not in writing

4. If compliance with the subpoena requires the production of a document which is not in writing (such as a photograph, computer disk, diskette, audio-tape, video-tape etc.: see section 38 of the **Interpretation of Legislation Act 1984**) then, provided the original is held by you until trial, a copy only need be produced to the Prothonotary. If a copy is produced, it must be clearly marked as such and it may be used by the Prothonotary for the purposes of inspection and, if necessary, copying.

Question concerning subpoena

5. Any question concerning this subpoena should be directed not to the Court but to the solicitor for the party at whose request the subpoena was issued.

Availability of documents for inspection and at trial

6. All documents produced in compliance with this subpoena will be available, unless earlier returned, at the trial of the proceeding and, subject to the following, may be inspected in the meantime by each party to the proceeding and his, her or its solicitor, and copies taken.

Objection by addressee to production or inspection

7. If you are the person required by this subpoena to produce documents, and you object to producing the documents or to their being inspected by any one or more of the parties to the proceeding, you must notify the Prothonotary in writing of your objection and the grounds of that objection before the day specified in the subpoena for the production of the documents. The party at whose request this subpoena is issued is required to inform you of the time and place when your objection will be heard by a Judge or an Associate Judge of the Court.

Objection by party served with subpoena to inspection

8. If you are a party to the proceeding and have been served with a copy of this subpoena, and you object to the documents being inspected by another party to the proceeding, you must notify the Prothonotary of your objection and the grounds of that objection before the day specified in the subpoena for the production of the documents. The party at whose request this subpoena is issued is required to inform you of the time and place when your objection will be heard by a Judge or an Associate Judge of the Court.

Objection by plaintiff to production of hospital or medical file or record

9. If you are the plaintiff in this proceeding and this subpoena seeks from another person the production of a hospital or medical file or record concerning you or your condition, you may, before taking objection, inspect the file or record produced to the



Prothonotary and, after such inspection, notify any objection you may have to inspection of that file or record by any other party, provided that you make your inspection and notify your objection and the grounds of that objection, if any, in writing within seven days after the day specified in the subpoena for production.

Obligation of issuing party after objection

10. If you are the party at whose request the subpoena was issued and any objection is taken, either to the production of the documents or to their being inspected, you will be informed by the Prothonotary of the objection and of the time and place when the objection will be heard. You are required promptly to inform the addressee in the subpoena and all other parties to the proceeding accordingly so that they may be heard, if they wish, before the objection is determined.

Removal of document

11. Documents produced in compliance with this subpoena may not be removed from the custody of the Prothonotary, even for the purpose of their being photocopied, except upon application in writing signed by a solicitor for a party. Rule 42A.11(2) of Chapter I of the Rules of the Supreme Court is then relevant:

"(2) A solicitor who signs an application under paragraph (1) and removes a document from the office of the Prothonotary, undertakes to the Court by force of this Rule that—

- (a) the document will be kept in the personal custody of the solicitor or a barrister briefed by the solicitor in the proceeding; and
- (b) the document will be returned to the office of the Prothonotary in the same condition, order and packaging in which it was removed, as and when directed by the Prothonotary."

A breach of this undertaking may be dealt with as a contempt of court.

Production of a number of documents or things

12. If you produce more than one document or thing, you must, if requested by the Prothonotary, produce a list of the documents or things produced.

Production of copy instead of original

13. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.

Return of documents or copies

14. Any documents produced by you in accordance with this subpoena may be returned by post to you at your address shown on this subpoena but you may in writing on or attached to this subpoena (or a copy) request that the documents be posted to you at another address given by you or that you be informed when they are available to be collected by you.

Applications in relation to subpoena

15. You have the right to apply to the Court—
 - (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
 - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.



Loss or expense of compliance

16. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to any conduct money or witnesses' expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court—arrest

17. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
18. Note 17 is without prejudice to any power of the Court under any Rules of the Supreme Court (including any Rules of the Supreme Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.



SCHEDULE OF PARTIES

S CI 2009 4788

BETWEEN

CAROL ANN MATTHEWS

Plaintiff

- and -

AUSNET ELECTRICITY SERVICES PTY LTD
(formerly SPI ELECTRICITY PTY LTD)
(ACN 064 651 118)

First Defendant

ACN 060 674 580 PTY LTD

Second Defendant

SECRETARY TO THE DEPARTMENT
OF SUSTAINABILITY AND ENVIRONMENT
COUNTRY FIRE

Third Defendant

1

COUNTRY FIRE AUTHORITY

Fourth Defendant

STATE OF VICTORIA

Fifth Defendant

AND BETWEEN

AUSNET ELECTRICITY SERVICES PTY LTD
(formerly SPI ELECTRICITY PTY LTD)
(ACN 064 651 118)

Plaintiff by Counterclaim

- and -

ACN 060 674 580 PTY LTD

First Defendant by Counterclaim

SECRETARY TO THE DEPARTMENT
OF SUSTAINABILITY AND ENVIRONMENT
COUNTRY FIRE

Second Defendant by Counterclaim

COUNTRY FIRE AUTHORITY

Third Defendant by Counterclaim

STATE OF VICTORIA

Fourth Defendant by Counterclaim

CAROL ANN MATTHEWS

Fifth Defendant by Counterclaim

AND BETWEEN

ACN 060 674 580 PTY LTD

Plaintiff by UAM Counterclaim

- and -

AUSNET ELECTRICITY SERVICES PTY LTD
(formerly SPI ELECTRICITY PTY LTD)
(ACN 064 651 118)



First Defendant by UAM Counterclaim

SECRETARY TO THE DEPARTMENT
OF SUSTAINABILITY AND ENVIRONMENT
COUNTRY FIRE

Second Defendant by UAM
Counterclaim

COUNTRY FIRE AUTHORITY

Third Defendant by UAM Counterclaim

STATE OF VICTORIA

Fourth Defendant by UAM Counterclaim

CAROL ANN MATTHEWS

Fifth Defendant by UAM Counterclaim