

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMON LAW DIVISION
MAJOR TORTS LIST

S CI 2014 06770

BETWEEN:

MAJID KAMARI KAMASAE

Plaintiff

and

THE COMMONWEALTH OF AUSTRALIA and others
(in accordance with the schedule attached)

Defendants

**THIRD DEFENDANT'S DEFENCE TO THE SECOND THIRD PARTY'S
COUNTERCLAIM**

Date of document: 1 May 2017

Solicitor's Code: 9973

Filed on behalf of: The Third Defendant

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Note: Capitalised terms bear the meaning given to them in the Statement of Claim on Third Party Noticed filed on behalf of the Third Defendant and dated 27 September 2016 (**Notice**).

In response to the Counterclaim filed by the Second Third Party (**Wilson**) on 9 December 2016, the Third Defendant says –

1 To paragraph 30 -

- (a) it admits that the Wilson Subcontract required that Wilson perform the Wilson Services in accordance with the terms of the Wilson Subcontract;

- (b) it admits that the Wilson Subcontract required that Wilson comply with the governance framework developed by it and/or the Commonwealth, in performing the Wilson Services;
- (c) it says that the Wilson Subcontract provided at all relevant times that Wilson was an independent contractor and not an agent of the Third Defendant;

Particulars

Clause 16.8 of the Wilson Subcontract, as varied.

- (d) it does not admit that the actions of Wilson alleged in the Notice (**Actions**) were taken by Wilson as the agent of the Third Defendant;
- (e) it denies that it is liable to indemnify Wilson in respect of any loss suffered by it by reason of it having taken the Actions;
- (f) it says that the indemnity arrangements between it and Wilson in respect of the Wilson Services are those specified in the Wilson Subcontract, which constitutes the entire agreement between the parties, and not otherwise;

Particulars

Clause 7 of the Wilson Subcontract, as varied.

- (g) it says further that it relies on the Transfield Contract and the Wilson Subcontract, as varied, for their full terms and effect; and
- (h) it otherwise denies the allegations therein.

JIM DELANY

LISA NICHOLS


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Corrs Chambers Westgarth
Solicitors for the Third Defendant

DATED: 1 May 2017

SCHEDULE OF PARTIES

No. SCI 2014 06770

MAJID KARAMI KAMASAE	Plaintiff
COMMONWEALTH OF AUSTRALIA	First Defendant
G4S AUSTRALIA PTY LTD ABN 64 100 104 658	Second Defendant
TRANSFIELD SERVICES (AUSTRALIA) PTY LTD ABN 11 093 114 553	Third Defendant
INTERNATIONAL HEALTH AND MEDICAL SERVICES PTY LTD (ABN 40 073 811 131)	First Third Party
WILSON PROTECTIVE SERVICES PNG LIMITED (Company No. 1-100593)	Second Third Party