

QUD-380/07

No. of 2007

**IN THE FEDERAL COURT OF AUSTRALIA
QUEENSLAND DISTRICT REGISTRY**

Frippery Pty Ltd

First Applicant

Mervyn Meyer Thomas

Second Applicant

Pamela Ann Thomas

Third Applicant

FEDERAL COURT OF AUSTRALIA
QUEENSLAND DISTRICT REGISTRY

1 2 NOV 2007

FILED / RECEIVED

Carol Jeannette Booth

First Respondent

Environmental Defenders Office (Qld) Inc

Second Respondent

Jo-Anne Bragg

Third Respondent

Larissa Waters

Fourth Respondent



APPLICATION

1. The Applicants apply to this Honourable Court under rule 54A of the Federal Court Rules and Section 39B of the Judiciary Act 1903 (Cth), Section 13 of the Summary Offences Act 1989 (Qld) and Section 139.2 of the Commonwealth Criminal Code 1995 for orders of certiorari and prohibition against the first, second, third and fourth respondents preventing them from continuing with action intended to coerce the payment of monies by the first applicant with the intention to cause losses to all three applicants. Further the applicants seek damages under Section 45D(1)(b) and Section 82 of the Trade Practises Act 1974 (Cth), and Section 39.1 and 39.2 of the Fair Trading Act 1989 (Qld) for losses already intentionally caused by the Respondents.

Date of document: 7 November 2007
Filed on behalf of: The Applicant
Prepared by: Waters Timms, Solicitors
Of: 5 Codrington Street
Cranbourne, 3977

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2. The Applicants claim that the Respondents whilst in receipt of funding from the Commonwealth, but not being persons or bodies empowered by any legislation either state or Commonwealth to initiate legal action against any party other than as a private individual, utilised resources provided by the Commonwealth to instigate and maintain legal action against the applicants for the purpose of destroying or financially crippling the company's business as a commercial grower and exporter of lychees.

A. DETAILS OF CLAIM

The Applicants claim that the Respondents, united under a shared belief "that agriculture is the enemy of conservation" circulated in literature by their principal legal advisor, Mr Christopher McGrath, sought to deny the applicants their right to protect their lychee fruit crop in a non lethal manner from attack by large swarms of bats resident in the national park adjoining their orchard, despite the fact that non-lethal deterrence used by the applicants is not an offence at law.

Further, that despite the Applicants having provided evidence to the Planning and Environment Court of Queensland sufficient to obtain judgement from that Honourable Court that the applicants were not committing any offence against the Nature Conservation Act of Queensland (1992) the first Respondent persisted in unlawful trespass upon the applicants' land contrary to Section 13 of the Summary Offences Act 1989 (Qld) and with other persons engaged in stalking of the applicants contrary to Section 359B and 359E of the Queensland Criminal Code 1899.

PARTICULARS

Further and Better Particulars of the abovementioned Details of Claim are included in the Statement of Claim accompanying this application and shall be also provided prior to the Trial of this matter

The Applicants seek:

1. That the Respondents, as beneficiaries of Commonwealth funding provided on the grounds that the funds not be used for litigation, be prohibited from continuing any litigation against the Applicants intended to cause financial loss contrary to the provisions of Section 139.2 of the Commonwealth Criminal Code 1995, and Section 45D of the Trade Practices Act 1974.
2. That the Commonwealth Government be prohibited from providing to the second, third and fourth Respondents further funds designated by the Attorney General's Department to fund community legal advice services whilst the Respondents originate and conduct further litigation against any party.
3. Compensatory damages from the Respondents, jointly and severally, in the sum of one million dollars, for losses already imposed on the Applicants by the Respondents' actions as private citizens without official position or status or in the alternative as Commonwealth Officials by virtue of their receipt of Commonwealth funding.



4. Punitive damages from the Respondents jointly and severally in the sum of one million dollars for pain, distress and suffering arising from fear generated by stalking and trespass upon the Applicants' land.
5. Costs
6. Any other orders this Honourable Court may deem fit.

B. CLAIM FOR INTERLOCUTORY RELIEF

AND the applicants claim by way of interlocutory relief:

1. ^{That} Each of the Respondents, jointly and severally be prohibited from seeking any payment from the applicants pending the hearing of this matter at trial.
2. That the Respondents or their agents, jointly or severally, be prohibited from approaching within one kilometre of the Applicants' orchard.

Date: 7 November, 2007

(signed, applicant or applicant's solicitor)



C. NOTICE TO RESPONDENT

TO the respondents: Carol Jeannette Booth
of 6 Henry St.
Chapel Hill. Qld.

And Environment Defenders Office (Qld) Inc
Jo-Anne Bragg

Of Larissa Waters
Level 9, 193 North Quay
Brisbane 4000.

This application has been set down for the time and place stated below. If you or a legal practitioner representing you do not attend the Court at that time, the application may be dealt with and judgment may be given, or an order made, in your absence. As soon after the time mentioned as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard;
- (b) directions may be given for the further conduct of the proceeding;
- (c) any application for interlocutory relief may be heard.

FOR DIRECTIONS ONLY

Before any attendance at Court, you must file an appearance in the Registry.

Time and date for hearing: ~~(to be entered by Registry unless fixed by Court)~~ 9:30 am

Place: Level 7 119 North Quay Brisbane.

THURSDAY 07 FEB 2008

D. ABRIDGMENT OF SERVICE

(Complete this section if the time for service has been abridged)

The time by which this application is to be served has been abridged by order made on _____ to _____

22 JAN 2008



E. FILING AND SERVICE

This application is filed by Waters Timms Solicitors for Frippery Pty Ltd whose address for service is c/- Waters Timms Solicitors, 5 Codrington St., Cranbourne, Vic. 3977.

The applicant's address is 376 Volk Rd. Mutarnee, Qld.

It is intended to serve this application on each person listed below:

Carol Jeannette Booth

Environment Defenders Office (Qld) Inc

Jo-Anne Bragg

Larissa Waters