

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged: Interlocutory Application - Form 35 - Rule 17.01(1)(a)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 21/11/2024 8:36:45 PM AEDT  
Date Accepted for Filing: 22/11/2024 8:43:11 AM AEDT  
File Number: NSD527/2024  
File Title: FORTESCUE LIMITED ACN 002 594 872 & ORS v ELEMENT ZERO PTY LIMITED ACN 664 342 081 & ORS  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: Hearing  
Time and date for hearing: 06/02/2025, 10:15 AM  
Place: Please check Daily Court List for details



*Sia Lagos*

Registrar

### Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



## Interlocutory application

No. NSD 527 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**FORTESCUE LIMITED ACN 002 594 872** and others named in the schedule

Applicants

**ELEMENT ZERO PTY LIMITED ACN 664 342 081** and others named in the schedule

Respondents

To the Applicants

The Third Respondent applies for the interlocutory orders set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

**Time and date for hearing:** 6 February 2025

**Place:** Law Courts Building, 184 Phillip Street, Queens Square, SYDNEY NSW 2000

Date: 21 November 2024

Signed by an officer acting with the authority  
of the District Registrar

Filed on behalf of (name & role of party)	Bjorn Winther-Jensen, Third Respondent
Prepared by (name of person/lawyer)	Mike Hales
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### **Interlocutory orders sought**

1. Pursuant to rr 20.13 and 20.15 of the *Federal Court Rules 2011 (Cth)* (**the Rules**), the Applicants are to give discovery of the documents that fall within the categories of documents set out in Annexure A.
2. The Applicants are to produce the documents referred to in Order 1 to the Respondents electronically by either email or secure electronic file transfer, pursuant to rr 20.13(4) and 20.15(2) of the Rules, by a date to be fixed by the Court.
3. Costs of this interlocutory application be reserved.

### **Service on the Respondents**

It is intended to serve this application on all Applicants via its solicitors on the record, Davies Collison Cave Law.

Date: 21 November 2024

A handwritten signature in blue ink, appearing to read 'Mike Hales', written over a horizontal line.

Signed by Mike Hales  
Lawyer for the Third Respondent



## Annexure A

### Definitions

Capitalised terms are defined in the Further Amended Statement of Claim dated 23 October 2024 (**FASOC**).

**Document** has the same meaning as in the *Federal Court Rules 2011* (Cth) but does not include any Excluded Documents.

**Excluded Documents** means documents already produced by the Applicants in the Proceedings.

**Proceedings** means the claim commenced by Fortescue in the Federal Court of Australia numbered NSD527/2024.

### Notes:

- All documents are to be produced in native form.
  - Each Document must be identified in relation to at least one discovery category.
- 1 Copies of all documents produced to the First, Second and Fourth Respondents by way of discovery.
  - 2 Documents recording or referring to the end of Dr Winther-Jensen's employment with Fortescue, including documents dated between 3 November 2021 and 12 November 2021 concerning:
    - (a) his resignation and terms on which his employment ended, including the preparation of a Deed of Separation;
    - (b) any instructions given to him in respect of the period following him giving notice of his resignation; and
    - (c) communications and records of any meetings between Dr Winther-Jensen and Fortescue employees.
  - 3 A native copy of the documents identified at particular (i)1-7 to paragraph 20 of the FASOC and any documents created, accessed by, or addressed to or from Dr Winther-Jensen which refer to or incorporate the documents identified at particular (i)1-7 to paragraph 20 of the FASOC.
  - 4 Documents recording or referring to Dr Winther-Jensen obtaining the information referred to in paragraph 20 of the FASOC, or accessing or using the information.

**Schedule**

Federal Court of Australia

No. NSD 527 of 2024

District Registry: New South Wales

Division: General

**Applicants**Second Applicant: **Fortescue Future Industries Pty Ltd ACN 625 711 373**Third Applicant: **FMG Personnel Services Pty Ltd ACN 159 057 646****Respondents**Second Respondent: **Bartlomiej Piotr Kolodziejczyk**Third Respondent: **Bjorn Winther-Jensen**Fourth Respondent: **Michael George Masterman**

Date: 21 November 2024