

NOTICE OF FILING

Details of Filing

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File Title: JOANNE TARNAWSKY v COMMONWEALTH OF AUSTRALIA AS
REPRESENTED BY THE DEPARTMENT OF FINANCE & ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



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.



Form 34
Rule 16.33

Reply

No. NSD 1689 of 2024

Federal Court of Australia
District Registry: New South Wales
Division: Fair Work

Joanne Tarnawsky
Applicant

The Commonwealth of Australia as represented by the Department of Finance
First Respondent

Richard Marles
Second Respondent

Timothy Gartrell
Third Respondent

In response to the Defences of the First, Second and Third Respondents, each filed on 23 December 2024 (respectively **D1**, **D2**, **D3**, and together the **Defences**), the Applicant adopts the same defined terms as appear in the Statement of Claim filed on 25 November 2024 (the **SOC**), and relies upon the following facts and assertions:

1. Save and except in so far as it contains admissions (including deemed admissions), or as otherwise expressly pleaded in this Reply, the Applicant:
 - a. joins issue with the matters pleaded in the Defences; and
 - b. relies upon the matters pleaded in the SOC.

2. In reply to paragraph 2(b) of D1 and paragraph 2 of D2, the Applicant relies upon the matters pleaded at paragraph 4 of D1 and paragraph 28(b)(i) of D2, and says further that she was and is employed by the Second Respondent.

3. In reply to paragraph 48 of D1, D2, and D3, the Applicant denies subparagraphs (a), (b), and (c) of D2, and says further that, on 7 May 2024:
 - a. At or around 10.00am, the Applicant sent a Signal message to Ms Brent which stated, inter alia, that the Applicant had not received further contact from the Second Respondent since on or around 1 May 2024.

 - b. At or around 1.01pm, the Applicant received two Signal messages:
 - i. the first, from the Second Respondent, seeking to check in on the Applicant and arrange a “*catch up*” with her for coffee “*tomorrow*”;

 - ii. the second, from Ms Ferry, asking how the Applicant’s weekend was.

 - c. At or around 4.25pm, the Applicant sent a Signal message to the Second Respondent stating that she was unavailable to catch up the following day, but that she might alternatively be free “*next week*”.

 - d. At or around 4.43pm, the Applicant received a Signal message from the Second Respondent stating, inter alia, that he would “*stay in touch*”.

Particulars

Signal message sent from the Applicant to Ms Brent at 10.01am on 7 May 2024.

Signal messages sent between the Applicant and the Second Respondent at 1.01pm, 4.25pm and 4.43pm on 7 May 2024.

Signal message received by the Applicant from Ms Ferry at 1.01pm on 7 May 2024.

Copies of these messages are in the Applicant's possession and may be provided upon request.

4. In reply to paragraph 60 of D1, D2 and D3:
 - a. The Applicant admits paragraphs 60(a), (c) and (d) of D1; and
 - b. The Applicant does not know and cannot admit paragraph 60(b) of D1.

5. The Applicant admits paragraph 62 of D1 and paragraph 62(b) of D3, but says further that the Applicant was excluded from this meeting by not being invited and subsequently being excluded during the meeting because of the matters at subparagraphs (a) and (b) below:
 - a. At or around 9.55am on 13 August 2024, the Applicant and Ms Brent had a conversation to the following effect:
 - i. The Applicant was asked by Ms Brent whether she was attending a meeting of all Chiefs of Staff, which was commencing at 10.00am.

- ii. The Applicant replied that she had not received an invitation or any other notification of this meeting and was not aware that it was scheduled.

Particulars

Conversation between Ms Brent and Ms Tarnawsky
which took place at the Office of Staff Support on or
around 13 August 2024.

- b. At or around 10.00am, the Applicant attended the all Chiefs of Staff meeting with Ms Brent.
 - i. The meeting was chaired by the Third Respondent, who sat at a large arrangement of tables constructed in an inward facing oval, enabling each of the Chiefs of Staff to see each other and participate in the meeting.
 - ii. Ms Ferry attended the meeting, and sat next to the Third Respondent, which as a matter of custom and practice is the space ordinarily reserved for the Chief of Staff to the Deputy Prime Minister.
 - iii. Most other Chiefs of Staff sat at the same inward facing tables.
 - iv. The Applicant was not invited to sit at the arrangement of inward facing tables, and instead was excluded from most other Chiefs of Staff, sitting on a chair positioned to the side of the room.

This Reply is filed on behalf of the Applicant in response to the First, Second and Third Respondents' Defences, each filed on 23 December 2024.

Date: 20 January 2025



Signed by Michael Bradley
Lawyer for the Applicant

This pleading was prepared by Michael Bradley, lawyer, and Rebecca Davern, of counsel

Certificate of lawyer

I, Michael Bradley, certify to the Court that, in relation to the reply filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non admission in the pleading.

Date: 20 January 2025



Signed by Michael Bradley

Lawyer for the Applicant