

**IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMON LAW DIVISION**

S CI 2013

BETWEEN

**MCDONALD'S AUSTRALIA LIMITED (ACN 008 496 928)**

Plaintiff

and

**JANINE WATSON AND ORS**

Defendants

**AFFIDAVIT OF ZOË ADELE JUSTICE**

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Date affirmed: 16 July 2013

Filed on behalf of: The plaintiff

Prepared by:

**Norton Rose Fulbright Australia**

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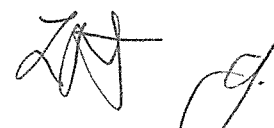
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I, ZOË ADELE JUSTICE of 485 Bourke Street, Melbourne, solicitor, Norton Rose Fulbright Australia, affirm and say as follows:

- 1 I am an employee of Norton Rose Fulbright Australia, the solicitors for the applicant in this proceeding.
- 2 I have the care and conduct of this proceeding on behalf of the applicant subject to the supervision of my principals.
- 3 Unless otherwise stated, I make this affidavit from my own knowledge.

**Media**

- 4 There has been a substantial number of media reports regarding the involvement of persons in the protests that are occurring in relation to the development of the land at 1529, 1529A and 1531 Burwood Highway, Tecoma (**Site**). A summary of selected media coverage reporting the involvement of each of the defendants follows.



### Janine Watson

- 5 On 1 July 2013, *The Age* published an online article titled "*Residents move in for fast food fight*" that states that "[f]our people, including protest stalwart Janine Watson, climbed onto the roof of the old Hazel Vale dairy armed with sleeping bags and water bottles, their aim to stop the demolition in its tracks". Now produced, shown to me and marked "**ZAJ-1**" is a copy of that article.
- 6 On 4 July 2013, in an extract from an interview between Janine Watson and Jon Faine of radio station 774 ABC, Janine is quoted as saying that "*she will continue to protest in the campaign ... and suggests the campaign will be further fortified as a result of the [incident where she sustained injuries to her hand]*". Now produced, shown to me and marked "**ZAJ-2**" is a copy of that extract.
- 7 On 5 July 2013, *The Age* published an article on page 15 titled "*Protestor claims disputed*" which states that "*50-year old Janine Watson (pictured) was one of four protestors who had camped on the roof of the future fast-food site in the Dandenong Ranges to thwart the building's planned demolition*". The article goes on to quote Janine Watson as saying "*I leant over the barricade and suddenly lots of hands grabbed me and pulled me down to the floor*". Now produced, shown to me and marked "**ZAJ-3**" is a copy of that article.
- 8 On 8 July 2013, *The Age* published an online article titled "*Police to probe McDonald's protestor attack claim*" referring to Natalie Webster, a police spokeswoman, as having said that "*Ms Watson, who had camped on the roof of the fast food site with three other protestors, had fallen, suffering an abrasion to her finger*". The article goes on to state that Ms Watson had "*said she was offering her 50<sup>th</sup> birthday cake to security members when they suddenly pulled her from the roof*". Now produced, shown to me and marked "**ZAJ-4**" is a copy of that article.

### Mark Lawrence

- 9 On 2 July 2013, the *Herald Sun* published an online article titled "*Protestors spend night on roof of building at Tecoma McDonald's work site as rally enters second day*" which includes several pictures showing protestors at the Site. The third photo shows Mark Lawrence on the roof of one of the buildings at the Site, along with Janine Watson in the sixth photo. This article states that "[p]rotestor Mark Lawrence said [sleeping on the roof] was reasonably comfortable- he managed to



*sleep and that the four of them got off the roof only to go to the toilet*". Now produced, shown to me and marked "**ZAJ-5**" is a copy of that article.


- 10 On 5 July 2013 at 8:09 pm, a recording of an interview between Guy Stayner of the ABC and Mark Lawrence was posted on the ABC News website (available through the following link- <http://www.abc.net.au/news/2013-07-05/dramatic-demo-in-the-dandenongs/4803022>). The interview is recorded on Site and shows Mark Lawrence being interviewed from the roof of one of the buildings on Site. He describes why he is opposed to the development of the Site and in response to a question from Guy Stayner regarding how long he was planning to spend up on the roof, he replied: "*It's a day to day proposition and at this stage we will have a presence here for as long as it takes*". Now produced, shown to me and marked "**ZAJ-6**" is a copy of the transcript of that interview.

#### **Shane Anderson**

- 11 On 1 July 2013 at 4:27 pm, Shane Anderson posted two photos on his Facebook page (in his 'Mobile Uploads' album which is publicly accessible) which show him sitting in a tent on top of a roof of one of the buildings on Site. The caption accompanying the upload of the two photos states "*Roof top occupation in style. No Maccas in Tecoma!*". Now produced, shown to me and marked "**ZAJ-7**" is a copy of his post and the two photos.
- 12 On 6 July 2013, the *Herald Sun* published an article on page 13 titled "*Sorry Ronald, the people rule*" which states that "*[l]ocal Shane Anderson, 38, who has been on a roof since Monday, said he would 'continue for as long as it takes'*". He is also quoted as saying "*I'm not 100 per cent confident we'll stop McDonald's but I'm confident we've made it much harder for them*". Now produced, shown to me and marked "**ZAJ-8**" is a copy of that article.

#### **Karl Williams**

- 13 On 6 July 2013, in a letter to *The Age*, Karl Williams wrote, "*I have just spent two days and nights atop the Tecoma buildings earmarked for demolition by McDonald's, defying police orders to come down. In my 57 years, I've never dreamt of breaking the law and nor has my wife, who accompanied me.*" He went on to write, "*[w]e had to come down for pressing family reasons, but are definitely*



*returning. Sometimes you have to break the law to change the law.*" Now produced, shown to me and marked "ZAJ-9" is a copy of that letter.

**Martha Silver Breninger**

- 14 On 14 July 2013 at about 4:15 pm, on the Facebook group page titled "*No Maccas in the Hills*", Martha Silver Breninger placed a post that read "*roofers needed tonight!! there was someone up there on their own last night, i was unaware of this. and feel very bad about it. we need to maintain the roof presence! I believe it is vital atm especially during the day. we can do tomorrow, but not tonight*" (sic). Now produced, shown to me and marked "ZAJ-10" is a copy of a screen shot that was taken on 5:20:47 pm on 14 July 2013 of this post.

**Marcia Stewart**

- 15 'Burger Off' is a website (<http://www.burgeroff.org>) that claims to have been established by a group that is committed to preventing the development of the Site. This website has published information in relation to the background to the plans for the development of the Site, the overall aims of the group as well as regular posts in relation to what is occurring at the Site. Now produced, shown to me and marked "ZAJ-11" is a copy of the print out of the background information and the updates that have been published on the Burger Off website from 1 July 2013 to 6 July 2013.
- 16 I refer to paragraphs 6 to 8 (inclusive) of the Affidavit of Anthony Robert Imolesi affirmed on 15 July 2013, identifying a woman that he states is Marcia Stewart who jumped on to the back of a Coates hire truck that was reversing into the Site on 4 July 2013.
- 17 The daily entry from the 'Burger Off' website for 4 July 2013 states that "*Marcia took the brave step to take a stand when she entered the construction site and jumped on the back of a contractor's truck that had entered the site. Police arrested her and charged her with trespass and a traffic offence*". Now produced, shown to me and marked "ZAJ-12" is a copy of the print out of this particular daily entry for 4 July 2013.
- 18 The daily entry from the 'Burger Off' for 6 July 2013 (for "Day 5") states that "*Marcia, the local protestor who yesterday jumped on a contractor's truck and was charged with trespass and a traffic offence, was placed on bail conditions that said*



*she was not to return within 100 metres of the site. Undeterred, she set herself up 100m from the site with her protest sign ... a divvy van of police soon pulled up and demanded she move further away from the site or face arrest for breaking bail conditions. Refusing to move Marcia told them she was 100m from the site and if they did not believe her they should come back with a tape measure. Marcia shows how this community will not be intimidated out of expressing our opposition to McDonald's in Tecoma".* Now produced, shown to me and marked "ZAJ-13" is a copy of the print out of this particular daily entry for 6 July 2013.

### **Ava Freeland**

- 19 On 1 July 2013, a Channel 7 news story was aired showing Ava Freeland being removed from the front of a truck. In an interview with Ava Freeland she states, *"I've never done anything like this in my life before, but I'll do anything to stop this development. It's so inappropriate in Tecoma."* Now produced, shown to me and marked "ZAJ-14" is a copy of the transcript of that interview and a photo of Ava Freeland from that interview.
- 20 On 3 July 2013, the *Free Press Leader* of Melbourne printed an article on page 1 titled *"All-night vigil at Maccas site"* which states that *"[o]n Monday morning one hills resident Ava Freeland tried to chain herself to the back of a truck using a lock-on device attached to her arm"*. This article shows a picture of Ava Freeland sitting on the roadside, surrounded by police and with the device attached to her arm. The caption to the photo reads *"Ava Freeland is removed by police after trying to chain herself to a construction truck"*. Now produced, shown to me and marked "ZAJ-15" is a copy of that article.

### **Social Media**

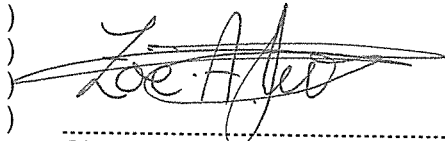
- 21 In addition to the 'Burger Off' website (referred to above at paragraph 15), there is a substantial amount of social media in relation to the protests at the Site and there have been several groups and pages set up on social media websites such as Facebook. One page that has been set up on Facebook is titled *"NO McDonald's in The Dandenong Ranges"*. Its 'About' page states that it was founded in July 2011 and it is described as being provided *"[f]or people who wish to show their support for keeping McDonald's out of our beautiful hills"*. It notes that it *"has been started by a concerned resident of the Dandenong Ranges and not by [Tecoma Village Action Group]"*. Now produced, shown to me and marked "ZAJ-16" is a



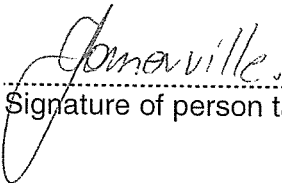
copy of all posts from the home page of "NO McDonald's in The Dandenong Ranges" from on or around 10 July 2013, the 'About' information for the page and a copy of the cover photo that was uploaded to the page on 14 July 2013.

22 It appears that the protestor groups have also established a group on Facebook titled "No Maccas in the Hills". The group is listed as an 'open group' and states that it "exists to promote fun, creative actions of protest and dissent against the proposed [McDonald's]. We encourage participation and the empowerment of the Hills community to take visible, loud and passionate actions to make our voice heard by not only McDonald's but the Council". It is clear from the posts that are made to the group's page that it facilitates communication and planning between group members. Now produced, shown to me and marked "ZAJ-17" is a copy of all posts made to the group from on or around 12 July 2013.

**AFFIRMED** at Melbourne  
in Victoria  
on 16 July 2013

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Signature of deponent

Before me:

  
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Signature of person taking affidavit

**Clare Louise Somerville**  
RACV Tower, 485 Bourke Street  
Melbourne Victoria 3000  
An Australian Legal Practitioner  
within the meaning of the  
Legal Profession Act 2004.