

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE
NUMBER: 2263/09

Plaintiff: Geraldine Fooi Fong Robertson
AND
First Defendant: Imagination Television Limited,
AND
Second Defendant: The Royal Society for the Prevention of Cruelty to
Animals Queensland (RSPCA)
AND
Third Defendant The State of Queensland,
AND
Fourth Defendant Queensland Newspapers Pty Ltd
41 Campbell St. Bowen Hills. QLD. 4006

Filed in the BRISBANE registry on _____ November 2010.

FOURTH AMMENDED STATEMENT OF CLAIM

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AMENDED STATEMENT OF CLAIM
Filed on Behalf of the Plaintiff
Form 16 Rules 22,146

Name: Geraldine Fooi-Fong Robertson
Address: 17-23 Buccan Road
Buccan, Qld. 4207
Phone No: 07 32205262
Email: groberst@bigpond.net.au

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This claim in this proceeding is made in reliance on the following facts.

1. FACTS COMMON TO ALL CAUSES OF ACTION

(1) At all material times:- The Plaintiff

- a. The Plaintiff owned and lived on her property at 17-23 Buccan Road, Buccan in the State of Queensland since 1992.
- b. The Plaintiff carried on and intended to carry on a business under the name of Waterford Boarding Kennels and Cattery BN18420539.
- c. The Plaintiff bred pedigreed poodles and intended to breed pedigreed poodles for sale in Australia and overseas.
- d. The Plaintiff's poodles were known as NEIGER POODLES.
- e. Prior to 9 January 2008 the Plaintiff did not receive any valid complaint, warning, or conviction for neglect, cruelty or abuse of animals or of her management of her kennels. The Plaintiff's kennels were always available for inspection to the public.
- f. From 5 January 2008 to 8 January 2008 both television and radio were broadcasting flash flooding warnings in both Logan and Beaudesert Shires where the Plaintiff's property is located.
- g. On the 9 January 2008 the Plaintiff's property had suffered the worst flooding rains in twenty years, as reported by the Bureau of Meteorology in "South East Queensland Floods January 2008" which had washed debris into the Plaintiff's kennels and into piles around her property.

(2) At all material times:- The First Defendant

- a. The first Defendant, Imagination Television Limited, is a media organisation.
- b. The first Defendant produces a TV show called RSPCA Animal Rescue.

- c. The TV Show RSPCA Animal Rescue seeks donations from the public for the Second Defendant.
 - d. The TV Show RSPCA Animal Rescue features RSPCA Inspectors of the Second Defendant.
 - e. The RSPCA Inspectors of the Second Defendant were portrayed saving animals from dangerous situations and “animal abusers”.
- (3) **At all material times:- The Second Defendant**
- a. The Second Defendant was a commercial pet trading organization incorporated on 23 December 1999 within meaning and interpretation of section 51 (xx) of the Commonwealth Constitution and, section 4 of the Trade Practices Act 1974 in accordance with Law established by the Federal Court of Australia in Orion Pet Products Pty Ltd – v – Royal Society for Prevention of Cruelty to Animals (Vic) [2002] FCA 860 (5 July 2002); (R – v – Federal Court of Australia; Ex Parte W.A. National Football League (1979) 143 CLR 190. E – v – Australian Red Cross Society (1991) 27 FCR 310. The RSPCA was a trading organization in the meaning of the trade Practices Act. Orion Pet Products Pty Ltd v Royal Society for the Prevention of Cruelty to Animals (Vic) [2002] FCA 860 (5 July 2002).
 - b. The Second Defendant Administered the Animal Care and Protection Act 2001 under contract to the Third Defendant.
 - i. *This contract expressly states “5.4 RSPCA will not and will ensure that its officers do not, permit or invite or facilitate entry of the media onto a property under investigation.”*
 - ii. *This contract expressly states “5.1 RSPCA will not, and will ensure that its inspectors do not, make any public comment on any investigations that they are involved in, other than to say the matter is “under investigation”, pending of current and may compromise a person’s rights under law.”*
 - iii. *This contract expressly states “5.2 RSPCA will, and ensure its inspectors will, at all times, use their best endeavours to ensure that a person’s rights under natural justice and common law are not compromised and that due process of law associated with the complaint is not compromised..”*
 - iv. *This contract expressly states “8.1 In order to provide accountability equivalent to DPI&F employed Inspectors, RSPCA must ensure that its Inspectors comply with: (c) the “ethics obligations” for public officials set out in Part 3, Division 2 of the Public Sector Ethics Act 1994, as if the inspector were a public official;”*

- c. In administering the Animal Care and Protection Act 2001 under contract and delegation the Second Defendant had a relationship of ascendancy and influence over the Plaintiff.

(4) At all material times:- The Third Defendant.

- a. The Third Defendant administered the Animal Care and Protection Act 2001.
- b. In administering the Animal Care and Protection Act 2001 The Third Defendant had a relationship of ascendancy and influence over the Plaintiff.
- c. The Third Defendant had delegated the administration of the above said Act to the Second Defendant under a contract.
- d. The Third Defendant was aware or should have been aware that the First Defendant was making the RSPCA Animal Rescue TV show shown on Channel 7.
- e. The Third Defendant was aware or should have been aware of the RSPCA Animal Rescue TV shows featured the Second Defendant's Inspectors on private properties.

Liability of the Third Defendant under the Animal Care and Protection Act 2001.

- (5) Section 215 "*Protection from liability*" makes the State of Queensland, the Third Defendant, liable for an act done, or omission made, honestly and without negligence under this Act.

(6) At all material times: The Fourth Defendant.

- a. The Fourth Defendant was a publisher of newspapers the Courier Mail, the Sunday Mail and the Brisbane Times.
- b. The Fourth Defendant publishes on its Internet web site www.couriermail.com.au and/or www.news.com.au/couriermail.
- c. Samantha Healy was a reporter, employee or agent employed by the Fourth Defendant.
- d. The Fourth Defendant published Samantha Healy's stories in its newspapers and on its Internet web site.
- e. Luke Marsden was a photographer, an employee or agent of the Fourth Defendant.
- f. The Fourth Defendant published Luke Marsden's photographs in its newspapers and on its Internet web site.

CAUSES OF ACTION AGAINST THE FOURTH DEFENDANT

2. TRESPASS BY THE FOURTH DEFENDANT.

- (1) At all material times the Plaintiff was in possession of her property.
- (2) On the 9th January 2008 Luke Marsden and Samantha Healy employed by the Fourth Defendant covered the execution of a warrant by RSPCA on the Plaintiff's property.
- (3) On the 9th January 2008 the Luke Marsden and Samantha Healy arrived with the Second Defendant's Inspectors at the Plaintiff's property.
- (4) On the 9th January 2008 after the warrant to enter had been served on the Plaintiff, the Plaintiff, after confirming there were media present, clearly refused to allow all media to enter her premises.
- (5) The Second Defendant's Inspector Lawrence Stageman invited Luke Marsden and Samantha Healy on to the Plaintiff's Property against the Plaintiff's expressed refusal to allow the media enter her property.
- (6) The Luke Marsden and Samantha Healy entered upon the Plaintiff's property against the Plaintiff's refusal to allow them to enter.
- (7) The Fourth Defendant published in its newspapers and web sites the photograph recordings on and of the Plaintiff and her property taken by Luke Marsden.

PARTICULARS

- a. The first depicting "*One of the neglected animals*", and;
 - b. The second depicting "*Geraldine Fooi Fong Robertson is the registered owner of the kennel*" talking to an RSPCA Inspector on her property at the time of Second Defendant's execution of their warrant, and;
 - c. The third depicting "*An RSPCA officer carries dogs from the kennel in Waterford*" on the Plaintiff's property at the time of the Second Defendant's execution of their warrant.
- (8) The Fourth Defendant published stories in its newspapers and web sites about the Plaintiff by Samantha Healy.

PARTICULARS

- a. Fourth Defendant published in the Sunday Mail on the 13 January 2008 and on the Fourth Defendant's web site since the 13 January 2008 "*101 dogs seized from 'kennel hell' by RSPCA officers*".

- (9) The Fourth Defendant intended to and did profit through increase sales of its newspapers and advertising revenue by providing sensational stories to the public.

Damages for Trespass from the Fourth Defendant.

The Plaintiff claims damages for trespass

- (10) The Plaintiff claims damages from the Fourth Defendant estimated at \$200,000 estimated to be the value of the profit made from their story published in their newspapers and in its internet web sites.

- (11) The Plaintiff claims special damages as detailed in 15. SPECIAL DAMAGES

3. DEFAMATION BY THE FOURTH DEFENDANT.

- (2) The Fourth Defendant is and was at all material times the proprietor of newspapers known as the "Courier Mail" and Brisbane Times with its websites www.couriermail.com.au and/or www.news.com.au/couriermail which is published throughout the Internet world.
- (3) From or about the 13 January 2008 to after the 14 November 2010 the Fourth Defendant published on their website under the heading "*101 dogs seized from 'kennel hell' by RSPCA officers*" together with three photographs reportedly taken by Luke Marsden.

PARTICULARS

- a. The first depicting "*One of the neglected animals*" and;
- b. The second depicting "*Geraldine Fooi Fong Robertson is the registered owner of the kennel*" talking to an RSPCA Inspector on her property at the time of Second Defendant's execution of their warrant and;
- c. The third depicting "*An RSPCA officer carries dogs from the kennel in Waterford*" on the Plaintiff's property at the time of the Second Defendant's execution of their warrant.

This internet article is attached and marked Annexure 1.

- (4) The said words on this web site were clearly understood to refer to the Plaintiff and to the Plaintiff's registered business Waterford Boarding Kennels and Cattery and to the Plaintiff's NEIGER Pedigreed poodles, and to the Plaintiff personal and private details, location and occupation.

PARTICULARS

- a. "*Geraldine Fooi Fong Robertson is the registered owner of the kennel*"

- b. “Geraldine Fooi Fong Robertson, 62, is registered with the Australian Securities and Investment Commission as the owner of the "breeding and grooming" business.”
- (5) From the 13 January 2008 to after the 14 November 2010 the Defendants published material of and concerning the plaintiff in the following words:
- a. The heading: "101 dogs seized from 'kennel hell' by RSPCA officers."
- (6) The matter complained of in its natural and ordinary meaning and by way of innuendo conveyed the following imputation which was defamatory of the plaintiff:
- a. The Plaintiff’s dogs in her care were kept in kennels which were inadequate and;
b. The Plaintiff was abusing and torturing her dogs and;
c. The Plaintiff was committing criminal offences upon her dogs.
- (7) By reason of the publication of the matter complained of in paragraph 3.(5) the plaintiff has been brought into hatred, ridicule and contempt and has been gravely injured in her good character and reputation and has suffered hurt and embarrassment and has and will continue to suffer losses and damages to herself and her businesses good reputations.
- (8) **The plaintiff claims the following relief:**
- a. Personal damages for defamation in the sum of \$60,000 estimated by reference to a comparable award for similar injuries, adjusted for the harshness of the Defendants conduct of continuous publication from 13 January 2008 to after 14 November 2010.
- (9) From the 13 January 2008 to after the 14 November 2010 the Defendants published material of and concerning the plaintiff in the following words:
- a. “Dogs on the property – including pure-bred poodles, labrador pups and a pomeranian – had not been groomed for some time and were in filthy enclosures.”
- (10) The matter complained of in its natural and ordinary meaning and by way of innuendo conveyed the following imputation which was defamatory of the plaintiff:
- a. Dogs under the Plaintiff’s care were neglected for a long period, and;
b. The Plaintiff’ did not clean her kennels.

(11) By reason of the publication of the matter complained of in paragraph 3.(9) the plaintiff has been brought into hatred, ridicule and contempt and has been gravely injured in her good character and reputation and has suffered hurt and embarrassment and has and will continue to suffer losses and damages to herself and her businesses good reputations.

(12) **The plaintiff claims the following relief:**

a. Personal damages for defamation in the sum of \$60,000 estimated by reference to a comparable award for similar injuries, adjusted for the harshness of the Defendants conduct of continuous publication from 13 January 2008 to after 14 November 2010.

(13) From the 13 January 2008 to after the 14 November 2010 the Defendants published material of and concerning the plaintiff in the following words:

a. *"RSPCA veterinarian Anne Covill said the living conditions were "abysmal", with many dogs suffering skin inflammations and riddled with worms."*

b. *"Internal parasites are another issue but it is too early to tell how bad it will be," Dr Covill said. "Its the worst condition I have seen in such large numbers."*

(14) The matter complained of in its natural and ordinary meaning and by way of innuendo conveyed the following imputation which was defamatory of the plaintiff:

- a. The Plaintiff's dogs were diseased with skin problems, and;
- b. The Plaintiff's dogs were infested with worms, and;
- c. All dogs under the Plaintiff's care were neglected, and;
- d. The plaintiff's kennels and cattery were inadequate and or sub standard.

(15) By reason of the publication of the matter complained of in paragraph 3.(13) the plaintiff has been brought into hatred, ridicule and contempt and has been gravely injured in her good character and reputation and has suffered hurt and embarrassment and has and will continue to suffer losses and damages to herself and her businesses good reputations.

The plaintiff claims the following relief:

(16) Personal damages for defamation in the sum of \$60,000 estimated by reference to a comparable award for similar injuries, adjusted for the harshness of the Defendants conduct of continuous publication from 13 January 2008 to after 14 November 2010.

- (17) Total for Defamation from the Fourth Defendant \$180,000.00
- (18) The Plaintiff claims special damages as detailed in 15. SPECIAL DAMAGES

4. BREACH OF RIGHT TO PRIVACY BY THE FOURTH DEFENDANT.

- (1) The Plaintiff relies on the pleadings in
2. Trespass By The Fourth Defendant and
3. Defamation By The Fourth Defendant pleaded above.
- (2) The Fourth Defendant intentionally intruded upon the plaintiff's seclusion and solitude and into her private affairs when the Fourth Defendant:
- a. Employee Luke Marsden came on to the Plaintiff's property and took photographs of her and her property and;
 - b. Employee Samantha Healy interviewed the Second Defendant's employees about the Plaintiff's dogs and;
 - c. Published the Plaintiff's private details in its media being newspapers and internet web sites. (Breeches of Section 43 (3) and Section 45 of the Invasion of Privacy Act 1971)
- (3) From the 13 January 2008 to the date of writing, the Plaintiff saw on many occasions the photographs taken on the 9 January 2008 from inside her residence and elsewhere and inside her property of herself and her dogs in the Fourth Defendant's newspapers and internet web sites. (Breeches of Section 43 (3) and Section 45 of the Invasion of Privacy Act 1971)

PARTICULARS

- a. Newspaper article "101 dogs seized from kennel hell" published on www.couriermail.com.au and/or www.news.com.au/couriermail from 13 January 2008 to after 14 November 2010 and;
- b. "101 dogs seized from kennel squalor" published in the Sunday Mail Newspaper on 13 January 2008 and;
- c. "from seized dogs" published in the Sunday Mail Newspaper on 20 January 2008 and;
- d. "RSPCA Cut in Services" published in the Sunday Mail Newspaper on 3 February 2008
- e. "Caring costs hit RSPCA" published in the Courier Mail newspaper on 3 February 2008 and;
- f. "Seized puppies kept from caring homes" published in the Courier Mail Newspaper on 23 March 2008 and;

- g. “because they are needed as evidence” published in the Courier Mail Newspaper on 23 March 2008 and;
 - h. “New homes allowed for 149 dogs” published in the Courier Mail Newspaper on October 30, 2009
- (4) The Fourth Defendant allowed or caused Public disclosure of embarrassing private facts about the Plaintiff.
 - (5) The publication of the newspaper articles placed the Plaintiff in a false light in the public eye.
 - (6) The Fourth Defendant’s appropriation of the plaintiff’s name was for the Fourth Defendant’s advantage being their intention to make profit from advertising and the sale of their newspapers:
 - a. The photographs and articles published were highly offensive to a reasonable person, and;
 - b. The publications were not of legitimate concern to the public and;
 - c. The publications placed the Plaintiff in a false light and;
 - d. The publications shown a reckless disregard for the Plaintiff.
 - (7) The published materials clearly identified the Plaintiff by her full name, age and the Plaintiff’s residence and business address, Waterford Boarding Kennels and Cattery and NEIGER poodles.
 - (8) The published articles failed to explain the effects of the flooding rains immediately prior to 9 January 2008 on the Plaintiff’s property and her dogs.
 - (9) The releases and publications of the abovementioned photographs and articles incited others to comment further about the Plaintiff in other newspaper articles, in newsletters, in emails and on Internet Forums.

The Fourth Defendant for Breach Of Right To Privacy Damages.

The Fourth Defendant’s Compensatory Damages for Breach of Right to Privacy

- (10) This breach of right to privacy and the publication of the material obtained by trespass and of and about the Plaintiff’s private affairs:
 - a. Caused the Plaintiff to be unable to act as an exporter of locally purchased poodles to satisfy overseas demands. The Plaintiff had expected to sell to her overseas customers 140 poodles per year at \$3,500 each for the following three years total being 420 poodles at an expected profit of \$2,500 each, \$1000 being the local purchase price. The Plaintiff claims the total loss of revenue being \$1,050,000.

- b. The Plaintiff could not conduct her pet boarding business “Waterford Boarding Kennel and Cattery”. The losses incurred from her boarding business of \$254,496 per year estimated on the following basis: The business has a DPI kennel licence No119 for 75 dogs fluctuating daily. Boarding rates are calculated at \$20.00/dog per day with an average occupancy rate of 30% for 270 days. Peak periods at an occupancy rate of 100% being school holidays, Easter and Christmas 100% occupancy being 95 days. The Plaintiff claims three years losses totaling \$763,488
- c. The Plaintiff’s business “Waterford Boarding Kennel and Cattery” has lost its goodwill value estimated at \$563,214 estimated from the fact the Plaintiff paid \$50,000 in 1992 for the good will of the kennel business at 10%/annum with CPI of 3% per annum.

Exemplary Damages for Breach of Right to Privacy

- (11) The First Defendant acted with conscious wrong doing in contumelious disregard of the Plaintiff’s rights. The Plaintiff seeks \$200,000 estimated with reference to other awards and adjusted for the extent of the harm done to the Plaintiff.

Aggravated Compensatory Damages for Breach of Right to Privacy

- (12) The Plaintiff claims damages from the First Defendant estimated at \$500,000 being for the Breach of Privacy estimated by the extent that the Breach of Privacy inconvenienced the Plaintiff and her loss of her peace and her right to privacy.

PARTICULARS

- (a) The Fourth Defendant’s published photographs and articles caused the Plaintiff to suffer many months of violent verbal, physical, mental assaults, confrontations, harassments and attacks on the Plaintiff and her properties by members of the public
- (b) Offensive material was dropped and or mailed to the Plaintiff in the Plaintiff’s letterbox.
- (c) When shopping, people went up to the Plaintiff and abused her in public places.
- (d) The Plaintiff had strangers arrived at her home abused and assaulted her verbally and threw stones, cans and bottles at her.
- (e) The Plaintiff had rubbish dumped on to her property.
- (f) The Plaintiff was physically assaulted by a man with a bottle and was hit on the head with the bottle.

- (g) The Plaintiff suffered many months of continuous abusive and threatening telephone calls which caused the Plaintiff to fear she would be murdered. Statements included:
- i. Calling the Plaintiff vile names, offensive racist descriptions;
 - ii. Telling the Plaintiff they would punish her for her evil acts;
 - iii. Threatening to treat the Plaintiff “*exactly as she had treated those poor dogs*”, and;
 - iv. The Plaintiff deserved to be “*beaten to death*”.
- (h) As a result of the Fourth Defendant’s Breach of the Plaintiff’s privacy the Plaintiff was considerably inconvenienced:-
- a. The Plaintiff had to shop at night to avoid people for fear of abuse from them and;
 - b. The Plaintiff had to shop in company, and;
 - c. The Plaintiff could not go anywhere without company, and;
 - d. The Plaintiff could no longer go to her club as several people there had threatened and abused her, and;
 - e. The Plaintiff in fear of abuse had to stop answering the telephone, and;
 - f. The Plaintiff in fear was afraid for over seven months to have her lights on at night fearing someone would see she was home and come and carry out their threats to murder her or worst beat her to death as they had said over the telephone.

(13) The Plaintiff seeks Special Damages as detailed in 14. SPECIAL DAMAGES..

CAUSES OF ACTION AGAINST THE FIRST DEFENDANT

2. TRESPASS BY THE FIRST DEFENDANT.

(1) At all material times the Plaintiff was in possession of her property.

- (2) On the 9 January 2008 the Second Defendant arrived at the Plaintiff's property with the First Defendant's film/video camera crew, other media, and a warrant to enter the Plaintiff's property to inspect her animals.
- (3) The Plaintiff, after the Warrant was served on her on the 9 January 2008, clearly refused to allow all media to enter her premises. This was said clearly to all media present including the First Defendant's camera crew.
- (4) The Second Defendant's Inspector Lawrence Stageman invited the First Defendant's camera/video crew on to the Plaintiff's Property against the Plaintiff's expressed refusal to allow the camera crew to enter her property:
- (5) The First Defendant's camera crew entered upon the Plaintiff's property.
- (6) The First Defendant's camera crew took video recordings on and of the Plaintiff and her property.
- (7) The First Defendant intended to profit itself and the Second Defendant by taking films/videos of the Plaintiff's premises for its' own purpose, making their RSPCA Animal Rescue Television show which seeks donations for the Second Defendant.
- (8) The First Defendant edited and released the film/video and photos screen shots to the Second Defendant who in turn used the materials itself advertising on the Internet as well as released the materials to media organisations and were shown on local, national and international news, television, newspapers and posted on web sites on the Internet.
And or ALTERNATIVELY
The First Defendant released this video to media organisations.
- (9) The First Defendant intended to profit itself and the Second Defendant by taking films/videos of the Plaintiff's premises for its own purpose, making their RSPCA Animal Rescue Television shows which seeks donations for the Second Defendant.

Damages for Trespass from the First Defendant.

The Plaintiff claims damages for trespass

- (10) The First Defendant intended to make considerable profit when the RSPCA Animal Rescue Television show featuring the Plaintiff's seizure went to air.
- (11) The Plaintiff claims damages from the First Defendant estimated at \$500,000 estimated to be the value of the profit to be made from showing the RSPCA Animal Rescue Television show.
- (12) The Plaintiff claims special damages as detailed in 15. SPECIAL DAMAGES.

6. BREACH OF RIGHT TO PRIVACY BY THE SECOND DEFENDANT AND OR FIRST DEFENDANT.

- (1) The Plaintiff relies on the pleadings in
5. Trespass By The First Defendant and
7. Intentional Infliction of Emotional Distress by the Second Defendant.
- (2) The First Defendant intentionally intruded upon the plaintiff's seclusion and solitude and in to her private affairs when the First Defendant
- a. Went to the RSPCA shelter where the Plaintiff's dogs were taken and took videos of the Plaintiff's dogs and;
 - b. Interviewed the Second Defendant's staff about the Plaintiff and her dogs and;
 - c. Allowed and or released videos to the media with the expectation that the media would publish these videos and make comments on them. (Breeches of Section 43 (3) and Section 45 of the Invasion of Privacy Act 1971.)
- (3) The First Defendant and or the Second Defendant intentionally intruded upon the plaintiff's seclusion and solitude and into her private affairs when the First Defendant and or the Second Defendant:
- a. Entered on to the Plaintiff property and took videos of her and her property and;
 - b. Allowed and or released videos taken on the Plaintiff property of her to the media with the expectation that the media would publish these videos and make comments on them. (Breach of Section 43 (3) and Section 45 of the Invasion of Privacy Act 1971.)
 1. National Television channel 10 and;
 2. National Television channel 9 and;
 3. National Television channel 7 and;
 4. National Television channel 2 and;
 5. Other media.
 - c. Allowed or released photographs or frames taken from the videos taken on of the plaintiff's property and of the Plaintiff to the media.
(Breach of Section 43 (3) and Section 45 of the Invasion of Privacy Act 1971.)
- (4) The Second Defendant intentionally intruded upon the plaintiff's seclusion and solitude and into her private affairs when the Second Defendant:

- a. Invited and or allowed National Television channel 10, National Television channel 7, National Television channel 2, National Television channel 9 and various other media to film, photograph the Plaintiff's dogs and interview people about the Plaintiff's dogs and of the Plaintiff private affairs at their RSPCA Shelter and elsewhere and report on the Plaintiff dogs and;
 - b. Allowed and or released videos, taken on the Plaintiff's property and of the Plaintiff, to the media with the expectation that the media would publish these videos and make comments on them and; (Breach of Section 43 (3) and Section 45 of the Invasion of Privacy Act 1971.)
 - c. Made public statements about the Plaintiff and her dogs and private affairs;
 - d. Allowed or instructed staff at the RSPCA Shelter to be interviewed with tutoring for a good story;
 - e. Allowed other people and the Second Defendant's staff at the RSPCA Shelter to be interviewed about the Plaintiff, her private affairs and her dogs and;
 - f. Encouraged the media to breach the Plaintiff's privacy.
- (5) The Second Defendant breached the Plaintiff's privacy by inviting the media on to the Plaintiff's property when the Plaintiff had refused the media her permission to enter upon her property.
- (6) The Second Defendant in Administering the Animal Care and Protection Act 2001 and executing a warrant had power, ascendancy and influence over the Plaintiff and the Plaintiff could not enforce her refusal to the media to enter on her property.
- (7) From about the 13 January 2008 the Plaintiff saw herself on Television many times along with films/videos taken on the 9 January 2008 from inside her residence, inside her property and elsewhere of herself and her dogs and heard comments about herself, her property and her dogs. (Breach of Section 43 (3) and Section 45 of the Invasion of Privacy Act 1971.)

PARTICULARS

- a. Videos/film of puppies in the Plaintiff's house and;
- b. Videos/film of the Plaintiff's dogs in her rear house yard and;
- c. Videos/film of the Plaintiff's dogs in her "halfway Kennels" and;
- d. Videos/film of the Plaintiff on her property and;
- e. Other video/film segments from inside her home and property and;

- f. Videos of the Plaintiff's dogs being clipped and being bathed in the Second Defendant's shelter.
- (8) The First Defendant claimed copyright to the films/videos taken:
 - a. On the Plaintiff's property and;
 - b. Of the Plaintiff and her private affairs.
- (9) The First Defendant and/or the Second Defendant allowed or caused Public disclosure of embarrassing private facts about the plaintiff.

PARTICULARS

- a. That Second Defendant's Inspectors had been to her property and seized all her dogs and;
 - b. That the Plaintiff had delayed entry to the Second Defendant and;
 - c. All her personal affairs surrounding the Second Defendant's seizure of her dogs.
- (10) The First Defendant licensed the Second Defendant to have a copy of their said films/videos of and about the Plaintiff and her private affairs.
 - (11) The Publicity and distribution of the videos along with comments by the Second Defendant's staff placed the plaintiff in a false light in the public eye including:

PARTICULARS

- a. When they failed to disclose the Plaintiff's property and dogs had suffered the worst flooding rains in twenty years.
- b. When its staff said the Plaintiff's dogs were malnourished and starving;
- c. When its staff said the Plaintiff's dogs were neglected;
- d. When its staff said the Plaintiff's dogs were diseased;
- e. When its staff said the Plaintiff's dogs were worm infested;
- f. When its staff said the Plaintiff's dogs had maggots (the Second Defendant put maggots on a dog called Ned);
- g. When its staff said the Plaintiff's dogs were full of fleas;
- h. When its staff said the Plaintiff's dogs had infected eyes;
- i. When its staff said the Plaintiff's dogs had infected ears;
- j. When its staff said the Plaintiff's dogs had skin problems;
- k. When its staff said the Plaintiff's dogs had urine burnt paws;
- l. When its staff said the Plaintiff was living off the proceeds of sales from her dogs;
- m. When its staff said the Plaintiff was funding the Plaintiff's retirement with her dogs;
- n. When its staff said the Plaintiff's dogs were living on their own urine and faeces;
- o. When its staff said the Plaintiff's kennels had not been cleaned in years;
- p. When its staff said the Plaintiff's dogs were unsociable;

- q. When its staff said the Plaintiff lived in filth;
- r. When its staff said the Plaintiff's smell "attracted men who liked that sort of thing";
- s. When its staff said the Plaintiff's dogs were "dogs housed in appalling living conditions";
- t. When its staff said the Plaintiff's dogs were "dogs infested with wounds and maggots";
- u. When its staff said the Plaintiff's dogs had "open wounds";
- v. When its staff said the Plaintiff's "dogs had fleas",
- w. When its staff said the Plaintiff's dogs had "urine burnt paws",
- x. When its staff said the Plaintiff's dogs were "matted with feces and urine",
- y. When its staff said the Plaintiff's dogs were "infested with hookworms"
- z. When its staff said the Plaintiff's "dogs not clipped for years"
- aa. When its staff said the Plaintiff's dogs had "untreated infected eyes and ears"
- bb. When its staff said the Plaintiff's dogs were "packing and eating each other".

(12) The First Defendant's Appropriation of the plaintiff's name was for the defendants advantage being their intention to make the RSPCA Animal Rescue Television show which seeks donations for the Second Defendant and:

- a. The videos were highly offensive to a reasonable person, and;
- b. Was not of legitimate concern to the public and;
- c. Placed the Plaintiff in a false light and;
- d. Had reckless disregard for the Plaintiff.

(13) The First Defendant had prepared or intended to prepare a series of segments or a segment on the Plaintiff to be shown on their RSPCA Animal Rescue TV show. (Breach of Section 43 (3) and Section 45 of the Invasion of Privacy Act 1971.)

(14) The published materials clearly identified the Plaintiff by her full name and the Plaintiff's business and residence address, Waterford Boarding Kennels and Cattery and NEIGER poodles.

(15) The Second Defendant had the First Defendant's permission to use the said films/videos.

(16) The release of the above said videos/films, photographs and other recordings and comments incited others to comment about the Plaintiff in other newspaper articles, in newsletters, in emails and in Internet Forums.

Damages for Breach Of Right To Privacy By The First Defendant and/or the Second Defendant.

Compensatory Damages for Breach of Right to Privacy

- (14) This breach of privacy distribution of the material obtained by this breach of privacy caused the Plaintiff to be unable to act as an exporter of locally purchased poodles to satisfy overseas demands. The Plaintiff had expected to sell to her overseas customers 140 poodles per year at \$3500.00 each for the following three years total being 420 poodles at an expected profit of 2,500 each, \$1000 being the local purchase price. The Plaintiff claims the total loss of revenue being **\$1,050,000.**
- (15) The Plaintiff could not conduct her pet boarding business “Waterford Boarding Kennel and Cattery”. The losses incurred from her boarding business of \$254,496/year estimated on the following basis: The business has a DPI kennel licence No119 for 75 dogs fluctuating daily. Boarding rates are calculated at \$20.00/dog per day with an average occupancy rate of 30% for 270 days. Peak periods at an occupancy rate of 100% being school holidays, Easter and Christmas 100% occupancy being 95 days. Totaled over three years the total claimed from the First and Second Defendants **\$763,488.00**
- (16) The Plaintiff’s business “Waterford Boarding Kennel and Cattery” has lost its goodwill value estimated at \$563,214 estimated from the fact the Plaintiff paid \$50,000 in 1992 for the good will of the kennel business at 10%/annum with CPI of 3% per annum. The Plaintiff claims the value of this Good will from the First and Second Defendants **\$563,214.00**

Exemplary Damages for Breach of Right to Privacy

- (17) The First Defendant acted with conscious wrongdoing in contumelious disregard of the Plaintiff’s rights. The Plaintiff seeks **\$300,000** estimated with reference to other awards and adjusted for the extent of the harm done to the Plaintiff.

Aggravated Compensatory Damages for Breach of Right to Privacy

- (18) The Plaintiff claims damages from the First Defendant estimated at **\$500,000** being for the Breach of Privacy estimated by the extent that the Breach of Privacy inconvenienced the Plaintiff and her loss of her peace and her right to privacy.

PARTICULARS

- d. The First Defendant’s video released to the media caused the Plaintiff to suffer many months of violent verbal, physical, mental assaults, confrontations, harassments and attacks on the Plaintiff and her properties by members of the public and;
- e. Offensive material was dropped and or mailed to the Plaintiff in the Plaintiff’s letterbox and;

- f. When shopping, people went up to her and abused her in public places and;
- g. The Plaintiff had strangers arrived at her home abused and assaulted her verbally and threw stones, cans and bottles at her and;
- h. The Plaintiff had rubbish dumped onto her property and;
- i. The Plaintiff was physically assaulted by a man with a bottle and was hit on the head with the bottle and;
- j. The Plaintiff suffered many months of continuous abusive and threatening telephone calls which caused the Plaintiff to fear she would be murdered. Statements included:
 - i. Calling her vile names, offensive racist descriptions and;
 - ii. Telling her they would punish her for her evil acts and;
 - iii. Threatening to treat her “exactly as she had treated those poor dogs” and;
 - iv. She deserved to be “beaten to death”.

(19) As a result of the Second Defendant’s Breach of the Plaintiff’s privacy the Plaintiff was considerably inconvenienced:-

- a. The Plaintiff had to shop at night to avoid people for fear of abuse from them and;
- b. The Plaintiff had to shop in company and;
- c. The Plaintiff could not go anywhere without company and;
- d. The Plaintiff could no longer go to her club as several people there had threatened and abused her and;
- e. The Plaintiff in fear of abuse had to stop answering the telephone and;
- f. The Plaintiff in fear was afraid for over seven months to have her lights on at night fearing someone would see she was home and come and carry out their threats to murder her or worst beat her to death as they had said over the telephone.

- (20) The Plaintiff claims the above mentioned damages equally from the First Defendant and the Second Defendant:-
- k. The First Defendant total damages for Breach of Right to Privacy in the amount of \$1,513,351.00 and;
 - l. The Second Defendant total damages for Breach of Right to Privacy in the amount of \$1,513,351.00
- (21) The Plaintiff claims special damages not claimed above as detailed in 14. SPECIAL DAMAGES

CAUSES OF ACTION AGAINST THE SECOND DEFENDANT

7. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS BY THE SECOND DEFENDANT.

- (1) The Second Defendant acted with intentional malice towards the Plaintiff as detailed below.
- (2) The emotional distress has been ongoing since the Second Defendant seized the Plaintiff's dogs on the 9th January 2008 and released video to the media. The Second Defendant's "campaign against the Plaintiff is continuing with regular spying, stalking and public comment of and about the Plaintiff and harassment telephone calls.
- (3) The Plaintiff relies in the pleadings in:
- 1. Facts Common To All Causes Of Action
 - 2. Trespass by the Fourth Defendant.
 - 3. Defamation by fourth defendant.
 - 4. Breach Of Right To Privacy By The Fourth Defendant.
 - 5. Trespass By The First Defendant.
 - 6. Breach Of Right To Privacy By The First Defendant and/or Second Defendant.
- (4) The fabricated and or edited videos obtained by that trespass of the First Defendant and or taken by the Second Defendant pleaded above were released or caused to be released by the Second Defendant to the media and did cause the Plaintiff considerable emotional distress;
- (5) The videos, photographs and comment were supplied to:
- i. Newspapers,
 - ii. Television Stations
 - iii. Internet web sites
 - iv. Others
- and published in TV News segments and in newspapers and the internet around the world.

- (6) On about from the 12 January 2008 the Plaintiff saw herself on Television many times along with films/videos taken on the 9 January 2008 from inside her residence and inside her property of herself and her dogs.

PARTICULARS

- a. Videos of puppies in the Plaintiff's house;
 - b. Videos of the Plaintiff's dogs in her rear house yard;
 - c. Videos of the Plaintiff's dogs in her "halfway Kennels";
 - d. Videos of the Plaintiff on her property;
 - e. Other video segments from inside her home and property.
- (7) The published materials clearly identified the Plaintiff by her full name and the Plaintiff's business and residence address, Waterford Boarding Kennels and Cattery and NEIGER poodles.
- (8) The Second Defendant invited media on to their property to report on the Plaintiff with the expectation that those reports would be damning of the Plaintiff.
- (9) The Second Defendant still has a neighbour, Tennille Holmes, spying/stalking the Plaintiff and feeding the Second Defendant stories about the Plaintiff and the people on her properties.

PARTICULARS

- a. Details in email sent to Shane Mansfield of the Logan City Council and Cc: Smith, Terry; Michael Pecic dated 21 June 2009.
- (10) The Second Defendant is still campaigning with malice against the Plaintiff by visiting and writing to the Logan City Council seeking and persuading the Logan City Council to act against the Plaintiff.

PARTICULARS

- b. Details in email sent to Shane Mansfield of the Logan City Council and Cc: Smith, Terry; Michael Pecic dated 21 June 2009.
- (11) The Second Defendant is still inciting and encouraging other people to spy, stalk the Plaintiff by telephoning the Plaintiff to find out her business and having them visit the Plaintiff or seeking to get the Plaintiff's permission to visit her to "inspect" her kennels to "collect evidence" against the Plaintiff for some future harassment of the Plaintiff.

PARTICULARS

- c. Details in email sent to Shane Mansfield of the Logan City Council and Cc: Smith, Terry; Michael Pecic dated 21 June 2009.

- (12) The Second Defendant is conducting a public campaign against “puppy farming” with a deliberate focus using fabricated photographs and comments of the Plaintiff.

PARTICULARS

- a. RSPCA Puppy Farm Discussion Paper Jan 2010 and;
 - b. “RSPCA seeks tougher puppy regulations” by PETRINA BERRY August 2, 2010 - 4:34PM of AAP.
- (13) The Second Defendant exercised malice towards the Plaintiff by:
- a. Putting maggots on a dog called Ned and saying the Plaintiff’s dogs had maggots on them and;
 - b. By calling flood washed debris a sludge of urine and faeces with a putrid smell and;
 - c. By releasing or causing to be released to the media video, photographs and comments of and about the Plaintiff and her properties and;
 - d. By denying and not stating that the Plaintiff’s property had suffered flood damage and;
 - e. By making statements or causing to be made statements that the Plaintiff’s dogs were diseased and;
 - f. By lying that an open courtyard had a putrid smell “that burnt the back of my throat” and;
 - g. By lying that the Plaintiff’s rain wetted dogs were covered in urine and faeces;
- (14) The Second Defendant acted with malice when the Second Defendant caused the Plaintiff to be unable to conduct her Waterford Boarding Kennel & Cattery business by:

PARTICULARS

- a. Writing to the Plaintiff lawyer Mr Patrick Earl, Burnslaw Legal Protection on the 29 February 2008 seeking assurances that the Plaintiff would not conduct any boarding or breeding related business from her property.
- b. Advising the Plaintiff lawyer Mr Patrick Earl, Burnslaw Legal Protection from about the 29th February 2008 that there would be further raids and seizures of her and her customer’s boarded dogs.
- c. By conducting a “Save The Poodles Telethon” on Television Channel 7 the Second Defendant publicly damnified the Plaintiff.
- d. By conducting a “Save The Poodles Petition” circular the Second Defendant publicly damnified the Plaintiff.

- e. By releasing videos/films, photographs and comments in the media that publicly damnified the Plaintiff, to her customers and potential customers.
- (15) There were no Court orders, proper or legal reasons why the Plaintiff could not conduct her boarding kennel business.
- (16) The second Defendant has made no attempt to mitigate the Plaintiff's losses.

Damages For Intentional Infliction Of Emotional Distress By The First Defendant.

- (17) The Plaintiff claims damages from the First Defendant estimated at \$500,000 being for the intentional infliction of emotional distress estimated by the extent and period of that emotional distress inflicted upon the Plaintiff.

PARTICULARS

- (a) The First Defendant's video obtained by trespass and/or taken by the Second Defendant and released to the media along with comments by the Second Defendant's staff and other people caused the Plaintiff to suffer many months of violent verbal, physical, mental assaults, confrontations, harassments and attacks on the Plaintiff and her properties by members of the public
- (b) Offensive material was dropped and or mailed to the Plaintiff in the Plaintiff's letterbox.
- (c) When shopping, people went up to her and abused her in public places.
- (d) The Plaintiff had strangers arrived at her home abused and assaulted her verbally and threw stones, cans and bottles at her.
- (e) The Plaintiff had rubbish dumped onto her property.
- (f) The Plaintiff was physically assaulted by a man with a bottle and was hit on the head with the bottle.
- (g) The Plaintiff suffered many months of continuous abusive and threatening telephone calls which caused the Plaintiff to fear she would be murdered. Statements included:
 - a. calling her vile names, offensive racist descriptions;
 - b. telling her they would punish her for her evil acts;
 - c. threatening to treat her "exactly as she had treated those poor dogs";

d. she deserved to be “beaten to death”.

(18) As a result of the matters aforesaid that are ongoing, the Plaintiff suffered and/or still suffers the following emotional distress related symptoms:-

- (a) chronic post traumatic stress disorder;
- (b) nauseous spells,
- (c) clumsiness,
- (d) stumbling and falling for no apparent reason,
- (e) difficulties in concentration,
- (f) difficulties in focusing,
- (g) sobbing for little reason,
- (h) nightmares about her beloved poodles ,
- (i) strange aches on different and various parts of her body,
- (j) numbness,
- (k) dizzy spells for no obvious reasons,
- (l) chest pains similar to that of a heart attack,
- (m) extremely high blood pressure on both the lower and upper readings
- (n) fainting spells;
- (o) blackouts;
- (p) sleep disorder;
- (q) nightmares;
- (r) fear and terror;
- (s) fear of being alone;
- (t) high blood pressure;
- (u) panic attacks with uncontrolled sobbing;
- (v) memory loss;
- (w) chest pains;
- (x) distress;
- (y) headaches;
- (z) lethargy;
- (aa) vomiting;
- (bb) loss of appetite;
- (cc) emotional distress;
- (dd) shock, pain and discomfort;
- (ee) Stress related skin rashes and continued itchiness on all parts of her body.

(19) As a result of the First Defendant’s conduct, the Plaintiff has:-

- (a) suffered and will continue to suffer considerable emotional pain, suffering and inconvenience;
- (b) suffered past economic loss and an impairment of her earning capacity, which has and may be productive of financial loss to the Plaintiff;

- (c) incurred special damages and other out of pocket expenses and may incur further such damages and expenses in the future;
- (d) The Plaintiff is fearful of being alone in her own home where she used to enjoy her privacy and solitude. This has caused her further loss of privacy and additional expenses and chores from having helpers to stay with her;
- (e) lost some of the amenities of life;

Exemplary Damages for Breach of Right to Privacy

- (22) The First Defendant has and is acting with conscious wrongdoing in contumelious disregard of the Plaintiff's rights. The Plaintiff seeks \$300,000 estimated with reference to other awards and adjusted for the extent of the harm done to the Plaintiff.

Aggravated Compensatory Damages for Breach of Right to Privacy

- (23) The Plaintiff claims aggravated damages from the First Defendant estimated at \$500,000 being for the emotional distress estimated by the extent that the emotional distress has inconvenienced the Plaintiff and her loss of her peace and her right to privacy.
- (24) The Plaintiff claims Special Damages as pleaded in 14. Special Damages.

8. NEGLIGENCE BY THE SECOND DEFENDANT

- (1) The Plaintiff relies on paragraphs pleaded in:
 - 1. Facts Common To All Causes Of Action
 - 2. Trespass by the Fourth Defendant.
 - 3. Defamation by fourth defendant
 - 4. Breach Of Right To Privacy By The Fourth Defendant.
 - 5. Trespass By The First Defendant.
 - 6. Breach Of Right To Privacy By The First Defendant and/or Second Defendant.
 - 7. Intentional Infliction Of Emotional Distress By The Second Defendant.
- (2) From 1992 to the 9 January 2008 the Plaintiff was conducting her "Waterford Boarding Kennel and Cattery" business boarding client's animals, breeding and selling Poodles.
- (3) The Second Defendant Administered the Animal Care and Protection Act 2001 and;

- (4) By the powers delegated under Contract with the Third Defendant in this Act the Second Defendant had a relationship of ascendancy and influence over the Plaintiff.
- (5) On the 9 January 2008 the Second Defendant executed a warrant to enter the Plaintiff's property and inspect her animals.
- (6) The Second Defendant arrived at the Plaintiff's property and brought various media with them including the First Defendant and the Fourth Defendant's employees/agents Luke Marsden and Samantha Healy.
- (7) The Second Defendant had a duty of care to:
 - a. respect the Plaintiff's privacy and;
 - b. respect the Plaintiff's right to deny the media entry onto her property and;
 - c. not expose the Plaintiff to harm, hatred and violence from the public and;
 - d. not vilify the Plaintiff or cause the Plaintiff to be vilified.
- (8) The Plaintiff refused permission for the media to enter upon her property.
- (9) The Second Defendant, against the Plaintiff's refusal to allow the media on to her property, invited the media onto her property.
- (10) The Media entered upon the Plaintiff's property on the invitation of the Second Defendant.
- (11) The media invited by the Second Defendant:
 - a. Trespassed on the Plaintiff and her property and;
 - b. Breached the Plaintiff's right to Privacy and;
 - c. Inflicted Emotional Distress upon the Plaintiff and;
 - d. Published articles that incited violence and hatred against the Plaintiff and;
 - e. Caused the Plaintiff to live in fear and terror.
- (12) The First Defendant gave the Second Defendant their video recordings of and in the Plaintiff's property and of the Plaintiff taken while on the Plaintiff's property **AND/OR in the Alternative** the Second Defendant took video of and in the Plaintiff's property and of the Plaintiff.
- (13) The Second Defendant released or allowed to be released video of and in the Plaintiff's property and of the Plaintiff to the media with the expectation that the media would publish this video and the Second Defendant's staff comments and other comments about the Plaintiff, her property and her dogs.

- (14) The said matters herein before pleaded and the damages and consequential loss suffered by the Plaintiff were caused by reason of the negligence or intentional negligence by the Second Defendant, particulars of which are as follows-
- (a) failing to take any or any adequate precautions for the safety of the Plaintiff;
 - (b) exposing the Plaintiff to the risk of injury which could have been avoided by reasonable care on the part of the Second Defendant;
 - (c) failing to observe that the Plaintiff was in a position of peril in the circumstances;
 - (d) failing to warn the Plaintiff that she was in a position of peril in the circumstances;
 - (e) knowingly and intentionally acting and behaving in a manner which was likely to cause loss and damage to the Plaintiff, when a reasonably prudent person would not have done so.
- (15) Consequent upon the Second Defendant's conduct since the 9 January 2008 the Plaintiff saw/heard herself being vilified in the television news, newspapers, internet and radio:

PARTICULARS

- a. Video of and on the Plaintiff property and the Plaintiff with comments was shown on Television news Nationally and Internationally including USA, Canada and New Zealand.
 - b. Newspaper around the world clearly identified the Plaintiff and her dogs and were damnifying of the Plaintiff;
 - c. Internet websites and Internet Forums filled with defamatory comment vilifying the Plaintiff and inciting hatred and violence towards her.
- (16) The Plaintiff letters to the Third Defendant requesting investigation and complaints of the Second Defendant's bad behaviour were ignored. The Third Defendant instead forwarded the Plaintiff's letters to the Second Defendant CEO, Mark Townend. The Second Defendant used the contents of those letters to further fabricate and delete evidence against the Plaintiff.

PARTICULARS

- a. Letters to the then Minister for Department of Primary Industries dated:
 - i. 17 March 2008 and;
 - ii. 28 March 2008;
 - iii. 15 April 2008 and;
 - iv. 18 April 2008 and;
 - v. 28 April 2008 and;
 - vi. 13 June 2008 and;

- vii. 21 June 2008 and;
 - b. Letters from the then Minister for Department of Primary Industries dated:
 - i. 25 March 2008 and;
 - ii. 14 April 2008 and;
 - iii. 22 May 2008 states all the Plaintiff's letters have been forwarded to the Second Defendant and;
 - iv. 15 June 2008 and;
 - v. 15 July states all the Plaintiff's letters have been forwarded to the Second Defendant 2008.
- (17) The Second Defendant persisted in their behaviour when on the 9 January 2009 the Plaintiff arrived at the Beenleigh Court House for her first mention for 149 charges of animal cruelty and neglect to be confronted by television cameras and reporters from Television Channel 2, Channel 7, Channel 9, Channel 10 and Channel 31 and newspaper reporters.
- (18) At the above said mention the Second Defendant's employee, Tracey Jackson, spoke to the media to persuade the media to publish material harmful of the Plaintiff. This material was published in the television news that evening.
- (19) As a consequence of the above conduct of the Second Defendant the Plaintiff again saw herself on television news.
- (20) As a consequence of the above conduct of the Second Defendant the Plaintiff received telephone death threats and nasty vile letters in the mail.

PARTICULARS

- a. A Christmas card "Jesus loves you" then "Every body thinks you're a cunt, Precedents are \$1000 a dog, they are coming to nail your arse big time, you stupid slope, jailtime for you.. chinkineese"
 - b. A letter that starts "Jesus Crist you're a mongrel"
 - c. The telephone calls were very distressing at five or more per day for the following month.
- (21) The Second Defendant has made no attempt to mitigate the Plaintiff's losses.
- (20) The Second Defendant has recruited the Plaintiff's neighbour, Tennille Holmes, who spy, stalk and report to the Second Defendant the Plaintiff 's activities as perceived by her.

PARTICULARS

- a. Email sent to Shane Mansfield of the Logan City Council and Cc: Smith, Terry; Michael Pecic dated 21 June 2009.

- (21) The Second Defendant is still campaigning against the Plaintiff by visiting and writing to the Logan City Council seeking to persuade the Logan City Council to act against the Plaintiff.

PARTICULARS

- a. Email sent to Shane Mansfield of the Logan City Council and Cc: Smith, Terry; Michael Pecic dated 21 June 2009.
- (22) The Second Defendant is still inciting and encouraging other people to spy/stalk the Plaintiff by calling the Plaintiff to find out her business and having them visit the Plaintiff or seeking to get the Plaintiff's permission to visit her to "inspect" her kennels to "collect evidence" against the Plaintiff for some future harassment of the Plaintiff

PARTICULARS

- a. Email sent to Shane Mansfield of the Logan City Council and Cc: Smith, Terry; Michael Pecic dated 21 June 2009.
- (23) The Second Defendant is conducting a public campaign against "puppy farming" with a deliberate focus using fabricated photographs and comments of the Plaintiff.

PARTICULARS

- a. RSPCA Puppy Farm Discussion Paper Jan 2010 and;
b. "RSPCA seeks tougher puppy regulations" by PETRINA BERRY August 2, 2010 - 4:34PM of AAP.
- (24) The Second Defendant or a reasonable person would have reasonably believed that the on going harassment/campaign of and against the Plaintiff with people spying/stalking her and the Second Defendant's communications to the media and others would incite hatred and violence towards the Plaintiff and cause the Plaintiff emotional distress resulting in loss and damage to the Plaintiff and her businesses.

These acts have been done with Malice by the Second Defendant

- (25) The Second Defendant exercised malice towards the Plaintiff by:
- h. Putting maggots on a dog called Ned and saying the Plaintiff's dogs had maggots on them and;
 - i. By calling flood washed debris a sludge of urine and faeces with a putrid smell and;
 - j. By releasing or causing to be released to the media video, photographs and comments of and about the Plaintiff and her properties and;
 - k. By denying and not stating that the Plaintiff's property had suffered flood damage and;
 - l. By making statements or causing to be made statements that the Plaintiff's dogs were diseased and;

- m. By lying that an open court yard had a putrid smell “that burnt the back of my throat” and;
 - n. By lying that the Plaintiff’s rain wetted dogs were covered in urine and faeces and;
 - o. By lying that wet paper was a sludge of urine and faeces and;
 - p. By lying that puppies, vet checked and ready for export to Benji Pet Kennels had urine burnt paws.
- (26) The Second Defendant acted with malice when the Second Defendant caused the Plaintiff to be unable to conduct her Waterford Boarding Kennel & Cattery business by:

PARTICULARS

- b. Writing to lawyer Mr Patrick Earl, Bumslaw Legal Protection on the 29th February 2008 seeking assurances that the Plaintiff would not conduct any boarding or breeding related business from her property.
 - c. Advising her lawyer Mr Patrick Earl, Bumslaw Legal Protection from about the 29th February 2008 that there would be further raids and seizures of her and her customer’s boarded dogs.
 - d. By conducting a ““Save The Poodles Telethon” Television Channel 7” the Second Defendant publicly damnified the Plaintiff .
 - e. By conducting a ““Save The Poodles Petition” circular” ” the Second Defendant publicly damnified the Plaintiff.
 - f. By releasing videos/films, photographs and comments in the media that publicly damnified the Plaintiff, to her customers and potential customers.
- (27) There were no Court orders or proper reasons why the Plaintiff could not conduct her boarding kennel business.
- (28) The Second Defendant acted with reckless indifference to the proper exercise of power under the said Act;
- (29) The Second Defendant did not act in good faith nor honestly in the performance of a public office for the public good;
- (30) The Second Defendant acted improperly to deny the plaintiffs natural justice and common law rights;
- (31) The Second Defendant acted with reckless indifference and/or deliberately to cause loss and damage that might foreseeably be suffered by the plaintiff;

- (32) The Second Defendant's conduct was performed in purported exercise of the Second Defendant's powers as Inspectors under the said Act.

Damages for Negligence by the Second Defendant.

- (33) As a result of the Second Defendant's behaviour the Plaintiff was and is considerably inconvenienced:-

PATRICULARS

- a. The Plaintiff had to shop at night to avoid people for fear of abuse from them;
 - b. The Plaintiff had to shop in company;
 - c. The Plaintiff could not go anywhere without company;
 - d. The Plaintiff could no longer go to her club as several people there had threatened and abused her;
 - e. The Plaintiff in fear of abuse had to stop answering the telephone and now refuses to answer the telephone where the call is from a private number;
 - f. The Plaintiff in fear was afraid for over six months to have her lights on at night fearing someone would see she was home and come and carry out their threats to murder her or worst beat her to death as they had said over the telephone.
- (34) As a result of the matters aforesaid, the Plaintiff suffered the following emotional and stress related symptoms:-
- (a) chronic post traumatic stress disorder;
 - (b) nauseous spells,
 - (c) clumsiness,
 - (d) stumbling and falling for no apparent reason,
 - (e) difficulties in concentration,
 - (f) difficulties in focusing,
 - (g) sobbing for little reason,
 - (h) nightmares about her beloved poodles ,
 - (i) strange aches on different and various parts of her body,
 - (j) numbness,
 - (k) dizzy spells for no obvious reasons,
 - (l) chest pains similar to that of a heart attack,
 - (m) extremely high blood pressure on both the lower and upper readings
 - (n) fainting spells;
 - (o) blackouts;
 - (p) sleep disorder;

- (q) nightmares;
- (r) fear and terror;
- (s) fear of being alone;
- (t) high blood pressure;
- (u) panic attacks with uncontrolled sobbing;
- (v) memory loss;
- (w) chest pains;
- (x) distress;
- (y) headaches;
- (z) lethargy;
- (aa) vomiting;
- (bb) loss of appetite;
- (cc) emotional distress;
- (dd) shock, pain and discomfort;
- (ee) Stress related skin rashes and continued itchininess on all parts of her body.

(35) As a result of the Second Defendant's conduct, the Plaintiff has:-

- (a) suffered and will continue to suffer considerable pain, suffering and inconvenience;
- (b) suffered past economic loss and an impairment of her earning capacity, which has and may be productive of financial loss to the Plaintiff;
- (c) received help in maintaining her property;
- (d) incurred special damages and other out of pocket expenses and may incur further such damages and expenses in the future;
- (e) The Plaintiff is fearful of being alone in her own home where she used to enjoy her privacy and solitude. This has caused her further loss of privacy and additional expenses and chores from having helpers to stay with her;
- (f) lost some of the amenities of life;

(36) As a result of the Second Defendant's behaviour the Plaintiff suffered harm to:-

- a. her good reputation;
- b. the good reputation of her world Famous Neiger Poodles;
- c. the good reputation of her business of operating her kennels;
- d. the good reputation of her business breeding and selling her world famous Neiger Poodles;

- e. the Plaintiff's real, business and personal properties has lost value;
 - f. impossible to return to professional employment as an Accountant or a Financial Analyst.
 - g. her ability to earn an income from her established businesses;
 - h. The total destruction of her businesses;
 - i. Loss of the goodwill value of her kennel property;
 - j. Loss of the goodwill value of her poodle breeding business;
- (37) In the premises, the Plaintiff, on account of her losses, has suffered losses and damages of the nature and in the amounts as follows:-
- (38) The Plaintiff had experienced suffering and loss of amenities of life, commensurable in general damages in an amount of \$1,000,000 estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;
- (39) the Plaintiff will suffer impairment of her earning capacity in the future, commensurable in damages, in the sum of \$1,000,000 (estimated on a global basis);
- (40) The Plaintiff claims damages from the Second Defendant estimated at \$500,000 estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Defendants conduct.

Exemplary Damages for Negligence by the Second Defendant

- (41) The First Defendant has and is acting with conscious wrongdoing in contumelious disregard of the Plaintiff's rights. The said actions and behaviour by the Second Defendant was activated by ill-will against the Plaintiff, were humiliating to the Plaintiff and were occasioned in contumelious disregard for the Plaintiff's rights and feelings in consequence of which the Plaintiff is entitled to aggravated and/or exemplary damages against the Defendant in an amount of \$1,000,000 estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;

Aggravated Compensatory Damages for Negligence by the Second Defendant

- (42) The Plaintiff claims aggravated damages from the First Defendant estimated at \$500,000 being for the harm and damage done to the Plaintiff estimated by the extent the inconvenience to the Plaintiff and her loss of her peace and her right to privacy.
- (43) The Plaintiff claims special damages as detailed in 14. Special Damages.

9. MISFEASANCE IN PUBLIC OFFICE BY THE SECOND DEFENDANT.

- (44) The Plaintiff relies upon the pleadings in:
1. Facts Common To All Causes Of Action
 2. Trespass by the Fourth Defendant.
 3. Defamation by fourth defendant
 4. Breach Of Right To Privacy By The Fourth Defendant.
 5. Trespass By The First Defendant.
 6. Breach Of Right To Privacy By The First Defendant and/or Second Defendant
 7. Intentional Infliction Of Emotional Distress By The Second Defendant.
 8. Negligence By The Second Defendant
- (45) The Second Defendant Administers the Animal Care and Protection Act 2001.
- (46) In administering under Contract the said Act the Second Defendant
- a. Holds a public office and;
 - b. Exercises public functions;
 - c. Has a power of ascendancy and influence over the Plaintiff.
- (47) The Second Defendant sought to raise funds by donations from the public for their stated “care of the Plaintiff’s Poodles”.
- (48) The Second Defendant conducted “trials by medias” against the Plaintiff.
- (49) The Second Defendant directly or by its negligence caused the Plaintiff to be intimidated and fearful.
- (50) The Second Defendant intimidated the Plaintiff to force her to surrender her valuable dogs to itself.

PARTICULARS

- d. Released and/or caused to be released videos/films, photographs comments of and about the Plaintiff and her properties and;
- e. Invited the media to report on the Plaintiff and her dogs and;
- f. conducted the “Save the Poodles Telethon” to raise money and damnified the Plaintiff and;

- g. Has and still is since the 9 January 2008 conducting a public campaign against the Plaintiff
 - h. Conducted the ““Save The Poodles Petition” circular” with the stated purpose to damnify and punish the Plaintiff in the courts and;
 - i. emailed this petition to members of the public collecting signatures and;
 - j. submitted these petitions to judges and members of the legal profession and others.
 - k. Incited hatred and violence towards the Plaintiff.
- (51) The Second Defendant recruited members of the public and the Poodle Club of Queensland Inc. to their campaign to act against the Plaintiff by fostering and or selling the Plaintiff’s valuable dogs to them with the warning that if the Plaintiff wins her forfeiture appeal they will have to give them back.

PARTICULARS OF THIS PUBLIC CAMPAIGN

- (a) The Second Defendant made no attempt or comment that the Plaintiff’s property had experienced the worst flooding rains in twenty years causing flood washed debris to be washed into her kennels and into piles on her property and interfering with the Plaintiff’s ability to properly manage her kennels during this rain event and instead called this flood washed debris urine and faeces with a putrid smell and caused to be published material with these comments.
- (b) The photographs of the puppies temporary housed in holding pens/kennels together with a commentary that the Plaintiff was puppy farming.
 - a. This caused the public to believe the Plaintiff permanently housed those puppies in those temporary holding pens.
 - b. This caused the public to believe the Plaintiff was breeding them intensively in those temporary holding cages;
- (c) Photographs and video of Plaintiff’s dogs in her back yard holding pens were published in Newspapers and Television with misleading comments by the Second Defendant’s staff and others.
- (d) Photographs and videos of dogs in both the brick kennels located in different areas of the 5 acres developed kennel property were published in Newspapers and Television with false and misleading comments
- (e) Photographs and videos of the Plaintiff’s dogs being clipped by members of the Poodle Club of Queensland Inc. at the Second Defendant premises were published in Newspapers and Television with false and misleading comments;

- (f) False statements that the Plaintiff's dogs were packing and eating each other were made by the Second Defendant's staff to others to the medias;
- (g) False statements made, or caused to be made, in court, to the medias and on the Internet by the Second Defendant included:-
- a. that the Plaintiff's dogs were malnourished and starving;
 - b. that the Plaintiff's dogs were neglected;
 - c. that the Plaintiff's dogs were diseased;
 - d. that the Plaintiff's dogs were worm infested;
 - e. that the Plaintiff's dogs had infected ears;
 - f. that the Plaintiff's dogs had skin problems;
 - g. that the Plaintiff's dogs had urine burnt paws;
 - h. that the Plaintiff was living off the proceeds of sales from her dogs;
 - i. that the Plaintiff was funding the Plaintiff's retirement with her dogs;
 - j. that the Plaintiff's dogs were living on their own urine and faeces;
 - k. that the Plaintiff's kennels had not been cleaned in years;
 - l. that the Plaintiff's dogs were unsociable;
 - m. that the Plaintiff's smell "attracted men who liked that sort of thing";
 - n. included "those poor neglected poodles";
 - o. that the Plaintiff's dogs were "dogs housed in appalling living conditions";
 - p. that the Plaintiff's dogs were "dogs infested with wounds and maggots" (after the Second Defendant placed maggots on a dog called Ned);
 - q. that the Plaintiff's dogs were "matted with faeces and urine";
 - r. that the Plaintiff's dogs were "infested with hookworms"
 - s. that the Plaintiff's "dogs not clipped for years"
 - t. that the Plaintiff's dogs had "untreated infected eyes and ears"
 - u. that the Plaintiff's dogs were "packing and eating each other".
- (h) The Second Defendant was stalking the Plaintiff by monitoring, publishing and adding comments to Internet forums about the Plaintiff.
- (i) The Second Defendant caused to be published in the media statements that were defamatory to and stalking of the Plaintiff.
- (j) The Second Defendant contacted the Plaintiff's neighbours and began discussions with them that clearly placed the Plaintiff in a false light.
- (k) The Second Defendant contacted the Plaintiff's neighbours and persuaded these neighbours to spy on and stalk the Plaintiff.
- (l) The Second Defendant stalked the Plaintiff by visiting the Plaintiff in late evening hours like 9:40 pm to serve legal documents,

- (m) The Second Defendant performed service of documents with two cars with search lights mounted on top of the vehicle when the Second Defendant knew the Plaintiff was living alone in fear and terror, receiving death threats, abusive letters, other threats, assaults, and harm from the public that was incited or done by the Second Defendant.
- (n) The Second Defendant knew and helped the First Defendant make a movie ready to be released “after the legal actions” for television Channel 7 RSPCA Animal Rescue TV show about the Plaintiff and her poodles.
- (o) The RSPCA Animal Rescue TV Show seeks donations from the public for the Second Defendant.
- (p) The RSPCA Animal Rescue TV show would further damnify the Plaintiff.
- (52) From the 9th January 2008 the Second Defendant provided to medias videos/films, photographs and defamatory comments about the Plaintiff, that a reasonable person would understand, would cause hatred of the Plaintiff.
- (53) The Second Defendant knew or should have known that pets are an emotional issue in the community and harm to pets can incite hatred by citizens of those seen to cause harm to pets.
- (54) Much of the media reporting did, or a reasonable person would expect would, incite others to have a hatred of the Plaintiff and want to punish the Plaintiff and/or see the Plaintiff punished.
- (55) The Second Defendant Inspectors told other pet owners and breeders false and degrading stories about the Plaintiff.

PARTICULARS

- a. That The Plaintiff’s dogs were packing and eating each other.
 - b. that The Plaintiff was only interested in the money;
 - c. that The Plaintiff would only clip the puppies for sale but let the others go matted;
 - d. that The Plaintiff wouldn't let anyone into the Plaintiff’s kennels for fear that the people would see the state of the kennels;
 - e. that The Plaintiff used to be an okay breeder years ago but that she now had too many other dogs and wasn't interested in the poodles anymore;
 - f. that the Plaintiff’s had too many dogs confined together and they can be mad;
 - g. that Mrs Robertson's dogs were killing each other.
- (56) The Second Defendant’s campaign caused the Plaintiff to suffer many months of violent verbal, physical, mental assaults, confrontations, harassments and attacks on the Plaintiff and her properties by members of the public.

PARTICULARS

- (a) Offensive material was dropped and or mailed to the Plaintiff in the Plaintiff's letterbox.
- (b) When shopping, people went up to her and abused her in public places.
- (c) The Plaintiff had strangers arrived at her home abused and assaulted her verbally and threw stones, cans and bottles at her.
- (d) The Plaintiff had rubbish dumped onto her property.
- (e) The Plaintiff was physically assaulted by a man with a bottle and was hit on the head with the bottle.
- (f) The Plaintiff suffered many months of continuous abusive and threatening telephone calls which caused the Plaintiff to fear she would be murdered.

Statements included:

- a. calling her vile names, offensive racist descriptions;
- b. telling her they would punish her for her evil acts;
- c. threatening to treat her "exactly as she had treated those poor dogs";
- d. she deserved to be "beaten to death".

(57) As a result of the matters aforesaid, the Plaintiff suffered and/or still suffers the emotional distress verified by the following symptoms:-

- (a) chronic post traumatic stress disorder;
- (b) nauseous spells,
- (c) clumsiness,
- (d) stumbling and falling for no apparent reason,
- (e) difficulties in concentration,
- (f) difficulties in focusing,
- (g) sobbing for little reason,
- (h) nightmares about her beloved poodles ,
- (i) strange aches on different and various parts of her body,
- (j) numbness,
- (k) dizzy spells for no obvious reasons,
- (l) chest pains similar to that of a heart attack,
- (m) extremely high blood pressure on both the lower and upper readings
- (n) fainting spells;
- (o) blackouts;
- (p) sleep disorder;
- (q) nightmares;
- (r) fear and terror;
- (s) fear of being alone;
- (t) high blood pressure;
- (u) panic attacks with uncontrolled sobbing;
- (v) memory loss;
- (w) chest pains;
- (x) distress;
- (y) headaches;

- (z) lethargy;
- (aa) vomiting;
- (bb) loss of appetite;
- (cc) emotional distress;
- (dd) shock, pain and discomfort;
- (ee) Stress related skin rashes and continued itchininess on all parts of her body.

(58) As a result of the Second Defendant's conduct, the Plaintiff has:-

- (a) suffered and will continue to suffer considerable pain, suffering and inconvenience;
- (b) suffered past economic loss and an impairment of her earning capacity, which has and may be productive of financial loss to the Plaintiff;
- (c) received help in maintaining her property;
- (d) incurred special damages and other out of pocket expenses and may incur further such damages and expenses in the future;
- (e) The Plaintiff is fearful of being alone in her own home where she used to enjoy her privacy and solitude. This has caused her further loss of privacy and additional expenses and chores from having helpers to stay with her;
- (f) lost some of the amenities of life;
- (g) and has been otherwise damnified.

(59) As a result of the Second Defendant's behaviour the Plaintiff suffered harm to:-

- a. her good reputation;
- b. the good reputation of her world Famous Neiger Poodles;
- c. the good reputation of her business of operating her kennels;
- d. the good reputation of her business breeding and selling her world famous Neiger Poodles;
- e. the Plaintiff's real, business and personal properties has lost value;
- f. impossible to return to professional employment as an Accountant or a Financial Analyst.
- g. her ability to earn an income from her established businesses;
- h. The total destruction of her businesses;
- i. Loss of the goodwill value of her kennel property;
- j. Loss of the goodwill value of her poodle breeding business;

Malice by the Second Defendant

(60) The Second Defendant exercised malice towards the Plaintiff by:

- a. Putting maggots on a dog called Ned and saying the Plaintiff's dogs had maggots on them and;
 - b. By calling flood washed debris a sludge of urine and faeces with a putrid smell and;
 - c. By releasing or causing to be released to the media video, photographs and comments of and about the Plaintiff and her properties and;
 - d. By denying and not stating that the Plaintiff's property had suffered flood damage and;
 - e. By making statements or causing to be made statements that the Plaintiff's dogs were diseased and;
 - f. By lying that an open court yard had a putrid smell "that burnt the back of my throat" and;
 - g. By lying that the Plaintiff's rain wetted dogs were covered in urine and faeces and;
- (61) The Second Defendant acted with malice when the Second Defendant caused the Plaintiff to be unable to conduct her Waterford Boarding Kennel & Cattery business by:

PARTICULARS

- g. Writing to lawyer Mr Patrick Earl, Bumslaw Legal Protection on the 29th February 2008 seeking assurances that the Plaintiff would not conduct any boarding or breeding related business from her property.
 - h. Advising her lawyer Mr Patrick Earl, Bumslaw Legal Protection from about the 29th February 2008 that there would be further raids and seizures of her and her customer's boarded dogs.
 - i. By conducting a "Save The Poodles Telethon" on Television Channel 7 the Second Defendant publicly damnified the Plaintiff.
 - j. By conducting a "Save The Poodles Petition" circular the Second Defendant publicly damnified the Plaintiff.
 - k. By releasing videos/films, photographs and comments in the media that publicly damnified the Plaintiff, to her customers and potential customers.
- (62) There were no Court orders or proper reasons why the Plaintiff could not conduct her boarding kennel business.
- (63) The Second Defendant acted with reckless indifference to the proper exercise of power under the said Act;
- (64) The Second Defendant did not act in good faith nor honestly in the performance of a public office for the public good;

- (65) The Second Defendant acted improperly to deny the plaintiffs natural justice;
- (66) The Second Defendant acted with reckless indifference to cause injury, loss or damage that might foreseeable be suffered by the plaintiff;
- (67) The Second Defendant's conduct was performed in purported exercise of the defendant's powers as Inspectors under the said Act.

Damages for misfeasance in public office by the Second Defendant.

- (68) In the premises, the Plaintiff, on account of her losses, has suffered losses and damages of the nature and in the amounts as follows:-
 - a. the Plaintiff had experienced loss of amenities of life, commensurable in general damages in an amount of \$1,000,000 estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;
 - b. The said actions and behaviour by the Second Defendant was activated by ill-will against the Plaintiff, were humiliating to the Plaintiff and were occasioned in contumelious disregard for the Plaintiff's rights and feelings in consequence of which the Plaintiff is entitled to aggravated and/or exemplary damages against the Defendant in an amount of \$1,000,000 estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;
 - c. The Plaintiff will suffer impairment of her earning capacity in the future, compensable in damages, in the sum of \$1,000,000 (estimated on a global basis);
 - d. the Second Defendant caused the Plaintiff to be stalked by the public and this stalking caused the Plaintiff to live in fear and terror. Estimated damages \$500,000; estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;

Exemplary Damages from Second Defendant for Misfeasance in Public Office

- (69) The Plaintiff seeks exemplary damages for their Breach of fiduciary duty from the Second Defendant of \$4,000,000. Tax Office avoidance penalties were 200%.

Special Damages from Second Defendant for Misfeasance in Public Office

- (70) The Second Defendant has seized the Plaintiff's records on the 22nd February 2008 and the proper calculations of economic losses cannot be performed. An estimate of the **economic net boarding income in one normal year is \$382,425** being net

boarding income from canines \$ 319,875 plus net boarding incomes from felines \$62,550. The Plaintiff claims **\$382,425 from the Second Defendant.**

- (71) The calculation is based as follows: **Average canine boarders is 75 dogs daily for 355 days per year at \$15/dog a day is \$363,875. The cost of feeding 75 dogs/day for 355 days costs \$ 36,900 and other costs of \$7,100 being disinfectants, washing detergent, hessian sacks for the dog beds, vehicle expenses, electricity for refrigerators and freezers estimated at \$20/day. The 75 dogs would consume 2 bags x 20 kgs bags of dog food a day at \$22/bag is \$44/day plus 20 kgs of raw beef, lamb or chicken and bones x \$3/kg is \$60/day. Net annual income for boarding 75 dogs is \$363,875 less costs of \$44,000 is \$319,875. The Plaintiff claims for three years of list income being \$959,625.00**
- (72) Average feline boarders is 20 cats daily for 355 days per year at \$10/cat a day is \$71,000. Costs for maintaining 20 cats for 355 days is \$8,450 The cost of feeding 20 cats daily is \$20/day. Other costs is \$6/day included cat litter, disinfectant, deodorant, detergent. **Net annual income for boarding 20 cats is \$62,550. The Plaintiff claims three years of lost income being \$187,650.00**

10. BREACH OF FIDUCIARY DUTY BY THE SECOND DEFENDANT.

- (73) The Plaintiff relies on the pleadings in:
1. Facts Common To All Causes Of Action
 2. Trespass by the Fourth Defendant.
 3. Defamation by fourth defendant
 4. Breach Of Right To Privacy By The Fourth Defendant.
 5. Trespass By The First Defendant.
 6. Breach Of Right To Privacy By The First Defendant and/or Second Defendant.
 7. Intentional Infliction Of Emotional Distress By The Second Defendant.
 8. Negligence By The Second Defendant
 9. Misfeasance In Public Office By The Second Defendant
 11. Detinue By The Second Defendant And/Or Theft By The Second Defendant
- (74) From 1992 to the 9 January 2008 the Plaintiff was conducting her “Waterford Boarding Kennel and Cattery” business.
- (75) The Second Defendant Administered the Animal Care and Protection Act 2001 and by the powers delegated under Contract in this Act the Second Defendant had a relationship of ascendancy and influence over the Plaintiff.
- (76) The Plaintiff was breeding and selling dogs locally, nationally and overseas from 1988 to 9 January 2008.
- (77) The Plaintiff had a good reputation in her business, her Neiger Poodles and for her boarding kennels up to 9th January 2008.

- (78) The Plaintiff on the 9th January 2008 had dogs belonging to overseas customers and local customers in her custody ready to be shipped overseas and picked up locally.
- (79) The Plaintiff had orders from overseas customers and local customers to purchase dogs.
- (80) On the 9th January 2008 the Second Defendant exercised a warrant to enter and inspect the Plaintiff's dogs and seized all her dogs.
- (81) On the 22nd February 2008 the Second Defendant exercised a warrant and seized the Plaintiff's records and other properties.
- (82) The Second Defendant had access to and did access all the Plaintiff's business, private and personal information.
- (83) The Plaintiff could not deny the Second Defendant access to her information as the Second Defendant had the powers of two warrants.
- (84) The Plaintiff was relying on and dependant on the Second Defendant obeying privacy legislation and not revealing her private and personal and business details to others.
- (85) The Second Defendant exploited the Plaintiff's private, personal and business opportunities it gained from:
- a. the seizure of the Plaintiff's dogs and;
 - b. the seizure of the Plaintiff's records..
- (86) The Second Defendant exploited the Plaintiff's private, personal and business opportunities to the Plaintiff's detriment.

PARTICULARS

- a. By raising funds from the public using edited and fabricated video of and on the Plaintiff's property and of the Plaintiff along with comments designed to enrage the public and create sympathy for the plaintiff's poodles such that the public would make donations to the Second Defendant "for the Plaintiff's poodles".
- b. with statements:
 - i. "those poor neglected poodles" and;
 - ii. "malnourished and starving dogs" and;
 - iii. "had not been clipped in years" and;
 - iv. "covered in faeces and urine" and many more as pleaded above.

- c. By making comments that damnifying the plaintiff as having neglected and ill-treated her dogs.
 - d. The Second Defendant conducted the ““Save The Poodles Telethon” Television Channel 7” to raise money.
 - e. The Second Defendant conducted the ““Save The Poodles Petition” circular”
 - i. emailing this petition to members of the public collecting signatures and
 - ii. submitted these petitions to judges and members of the legal profession and others.
 - f. The “Save the Poodles Telethon” on Television Channel 7 damnified the Plaintiff and aroused public sympathy for my poodles to encourage donations.
 - g. The “Save the Poodles Petition” circular damnified the Plaintiff and aroused public sympathy for my poodles to encourage donations.
 - h. The second Defendant contacted suppliers of pet products seeking donations from them for the Plaintiff’s Poodles.
- (87) The Plaintiff estimates the Second Defendant received in excess of \$2,000,000 in the form of cash, real estate property and bequeaths from the public and other donations of pet food and related products.
- (88) The Second Defendant exploited the business opportunity using the Plaintiff’s private information by damnifying the Plaintiff to raise funds from the community.

PARTICULARS

- i. The Second Defendant Inspectors told other pet owners and breeders false and nasty stories about the Plaintiff.
- ii. that The Plaintiff’s dogs were packing and eating each other.
- iii. that The Plaintiff was only interested in the money;
- iv. that The Plaintiff would only clip the babies for sale but let the others go matted;
- v. that The Plaintiff wouldn't let anyone into your kennels for fear that the people would see the state of the kennels;
- vi. that The Plaintiff used to be an okay breeder years ago but that she now had too many dogs and wasn't interested in the poodles anymore;
- vii. that the Plaintiff’s had too many dogs confined together and they can be mad;
- viii. that Mrs Robertson's dogs were killing each other.
- ix. And much more as pleaded above.

- (89) The Second Defendant further exploited the business opportunities by damnifying the Plaintiff and aroused public sympathy for the Plaintiff's poodles in the media to raise donations from the public.

PARTICULARS

- (a) The Second Defendant failed to inform the public that the Plaintiff's property had suffered the worst flash flooding rains in twenty years and that there was flood washed debris in piles on the Plaintiff's property and in her kennels. Instead the Second Defendant took advantage of this flood damage to refer to the debris as faeces and urine with a putrid smell and made statements like "*the kennels had not been cleaned in years*".
- (b) The photographs of the puppies temporary housed in holding pens/kennels together with a commentary that the Plaintiff was puppy farming causing the public to believe the Plaintiff permanently housed those puppies in those temporary holding pens;
- (c) Tampered photographs and video of dogs in the back yard holding pens were published in Newspapers and Television with misleading comments.
- (d) Tampered photographs and videos of dogs in both the kennels located in different areas of the 5 acres were published in Newspapers and Television with misleading comments
- (e) Tampered photographs and video of the Plaintiff's dogs being clipped by members of the Poodle Club of Queensland Inc. at the Second Defendant premises were published in Newspapers and TV with misleading comments;
- (f) Statements that the Plaintiff's dogs were packing and eating each other made by the Second Defendant to others and to the medias;
- (g) Statements made, or caused to be made, to the medias and on the Internet by the Second Defendant included:-
- a. that the Plaintiff's dogs were malnourished and starving and;
 - b. that the Plaintiff's dogs were neglected and;
 - c. that the Plaintiff's dogs were diseased and;
 - d. that the Plaintiff's dogs were worm infested and;
 - e. that the Plaintiff's dogs had maggots and;
 - f. that the Plaintiff's dogs were full of fleas and;
 - g. that the Plaintiff's dogs had infected eyes and;
 - h. that the Plaintiff's dogs had infected ears and;
 - i. that the Plaintiff's dogs had skin problems and;
 - j. that the Plaintiff's dogs had urine burnt paws and;

- k. that the Plaintiff's Plaintiff was living off the proceeds of sales from her dogs and;
 - l. that the Plaintiff's Plaintiff was funding the Plaintiff's retirement with her dogs and;
 - m. that the Plaintiff's dogs were living on their own urine and faeces and;
 - n. that the Plaintiff's kennels had not been cleaned in years and;
 - o. that the Plaintiff's dogs were unsociable and;
 - p. that the Plaintiff's Plaintiff lived in filth and;
 - q. that the Plaintiff's smell "attracted men who liked that sort of thing" and;
 - r. included "those poor neglected poodles" and;
 - s. that the Plaintiff's dogs were "dogs housed in appalling living conditions" and;
 - t. that the Plaintiff's dogs were "dogs infested with wounds and maggots" and;
 - u. that the Plaintiff's dogs had "open wounds" and;
 - v. that the Plaintiff's "dogs had fleas" and;
 - w. that the Plaintiff's dogs had "urine burnt paws" and;
 - x. that the Plaintiff's dogs were "matted with faeces and urine" and;
 - y. that the Plaintiff's dogs were "infested with hookworms" and;
 - z. that the Plaintiff's "dogs not clipped for years" and;
 - aa. that the Plaintiff's dogs had "untreated infected eyes and ears" and;
 - bb. that the Plaintiff's dogs were "packing and eating each other".
- (h) The Second Defendant was stalking the Plaintiff by monitoring and adding comments to Internet forums about the Plaintiff.
 - (i) The Second Defendant caused to be published in the media statements that were defamatory to and stalking of the Plaintiff.
 - (j) The Second Defendant contacted the Plaintiff's neighbours and began discussions with them that clearly placed the Plaintiff in a false light.
 - (k) The Second Defendant contacted the Plaintiff's neighbours and persuaded these neighbours to stalk and spy on her.
 - (l) The Second Defendant stalked the Plaintiff by visiting the Plaintiff in late evening hours like 9:40 pm to serve documents.
 - (m) The Second Defendant performed service of documents with two cars with flood lights on mounted on top of the vehicles when the Second Defendant knew the Plaintiff was living alone in fear and terror, receiving death threats, abusive letters, other threats, assaults, and harm from the public that was incited by the Second Defendant.

- (n) The First Defendant had made a movie ready to be released “after the legal actions” by the Plaintiff for television Channel 7 RSPCA Animal Rescue TV show about the Plaintiff and her poodles.
- (90) As a result of the Second Defendant’s behaviour the Plaintiff suffered harm to:-
- a. her good reputation and;
 - b. the good reputation of her world Famous Neiger Poodles and;
 - c. the good reputation of her business of operating her kennels and;
 - d. the good reputation of her business breeding and selling her world famous Neiger Poodles and;
 - e. the Plaintiff’s real, business and personal properties has lost value and;
 - f. impossible for the Plaintiff to return to professional employment as a qualified Accountant or a Financial Analyst and;
 - g. her ability to earn an income from her businesses and;
 - h. Loss of the goodwill value of her kennel and;
 - i. Loss of the goodwill value of her poodle breeding business.

Malice by the Second Defendant

- (91) The Second Defendant exercised malice towards the Plaintiff by:
- a. Putting maggots on a dog called Ned and saying the Plaintiff’s dogs had maggots on them and;
 - b. By calling flood washed debris a sludge of urine and faeces with a putrid smell and;
 - c. By releasing or causing to be released to the media video, photographs and comments of and about the Plaintiff and her properties and;
 - d. By denying and not stating that the Plaintiff’s property had suffered flood damage and;
 - e. By making statements or causing to be made statements that the Plaintiff’s dogs were diseased and;
 - f. By lying that an open court yard had a putrid smell “that burnt the back of my throat” and;
 - g. By lying that the Plaintiff’s rain wetted dogs were covered in urine and faeces;
- (92) The Second Defendant acted with malice when the Second Defendant caused the Plaintiff to be unable to conduct her Waterford Boarding Kennel & Cattery business by:

PARTICULARS

- f. Writing to the Plaintiff lawyer Mr Patrick Earl, Burnslaw Legal Protection on the 29th February 2008 seeking assurances that the Plaintiff would not conduct any boarding or breeding related business from her property.

- g. Advising the Plaintiff lawyer Mr Patrick Earl, Burnslaw Legal Protection from about the 29th February 2008 that there would be further raids and seizures of her and her customer's boarded dogs.
 - h. By conducting a "Save The Poodles Telethon" Television Channel 7 the Second Defendant publicly damnified the Plaintiff.
 - i. By conducting a "Save The Poodles Petition" circular the Second Defendant publicly damnified the Plaintiff.
 - j. By releasing videos/films, photographs and comments in the media that publicly damnified the Plaintiff, to her customers and potential customers.
- (93) There were no Court orders or proper reasons why the Plaintiff could not conduct her boarding kennel business.
- (94) The second Defendant has made no attempt to mitigate the Plaintiff's losses.

Damages For Breach Of Fiduciary Duty from The Second Defendant.

- (95) The Second Defendant was enriched at the expense of the Plaintiff.
- (96) The Plaintiff seeks Disgorgement from the Second Defendant of the benefit derived from their conduct of \$3,000,000.

Exemplary damages for breach of fiduciary duty from the Second Defendant.

- (97) The Plaintiff seeks exemplary damages for their Breach of fiduciary duty from the Second Defendant of \$6,000,000. Tax Office avoidance penalties were 200%.
- (98) The Plaintiff seeks Special Damages as pleaded in 14. SPECIAL DAMAGES

11. DETINUE BY THE SECOND DEFENDANT AND/OR THEFT BY THE SECOND DEFENDANT

(Detinue – In practice. A form of action which lies for the recovery, in specie, of personal chattels from one who acquired possession of them lawfully but retains it without right, together with damages for the detention. 1 Bouvier's Law Dictionary 472 (1867))

- (1) On the 9th January 2008 the Second Defendant seized 153 dogs in total and only receipted 105 dogs seized. The value of those 48 dogs not receipted and forfeited to the state are now claimed from the Second Defendant by the Plaintiff.
- (2) The Plaintiff was preparing her Appeal to the Third Defendant due from date of receipt of advice of forfeiture of her dogs and on the 22nd February 2008 the

Second Defendant, with a warrant under the Animal Care and Protection Act 2001, seized and/or stole the Plaintiff's property:

PARTICULARS

- (a) business records;
 - (b) kennel records;
 - (c) whelping register;
 - (d) private and personal records in two leather attaché case;
 - (e) pedigreed records and certificates;
 - (f) tax records;
 - (g) the Plaintiff's evidence that she had been spending monies on her dogs;
 - (h) evidence the Plaintiff had orders for her puppies;
 - (i) evidence of which bitches were mated to whom and dates these pregnant bitches were expected to deliver their puppies;
 - (j) vaccination records of whom was due for booster vaccinations;
 - (k) contact details and orders from respective customers;
 - (l) jewellery;
 - (m) cash;
 - (n) antiques;
 - (o) computer which has since been returned;
 - (p) legal professional privilege documents included the Plaintiff's communications with her then lawyers.
- (3) The Plaintiff's rights to Natural Justice and her common law rights suffered from the seizure of her property on the 22nd February 2008. Evidence the Plaintiff needs for her defence of the charges of animal cruelty and animal neglect was no longer available to the Plaintiff.
- (4) The Plaintiff's computer was returned on Magistrates Court orders on the 2th July 2008 with:
- a. Files deleted from the Plaintiff's computer.
- (5) A broken lock leather attaché case and a damaged grooming box and copies of some documents has been returned this being records previous to ten years prior to 2008.
- (6) The Plaintiff's filing cabinets, book shelves and kitchen cupboards, bedroom cupboards were emptied. From the store room boxes of crystal light lamps and fittings and tools disappeared.
- (7) No other property and originals of records has been returned.
- (8) On the 22nd February 2008 The Second Defendant's Inspectors went through the Plaintiff's handbag when the Plaintiff was not present.

- (9) On the 22nd February 2008 The Second Defendant's Inspectors searched the Plaintiff's bedroom without the Plaintiff being present where her jewellery and wedding ring and some personal records were stored and went missing.
- (10) The Plaintiff reported this theft of property to the Police.
- (11) The Plaintiff reported this theft of property to the Third Defendant Chief Executive Officer - the Minister of Primary Industries & Fisheries.

PARTICULARS

- a. Letters to the then Minister for Department of Primary Industries dated:
- i. 17 March 2008 and;
 - ii. 28 March 2008;
 - iii. 15 April 2008 and;
 - iv. 18 April 2008 and;
 - v. 28 April 2008 and;
 - vi. 13 June 2008 and;
 - vii. 21 June 2008 and;
- b. The Third Defendant eventually replied to the Plaintiff informing all the Plaintiff's letters were forwarded to the Second Defendant's Chief Executive Officer who did not acknowledge receiving and did not reply to any of the Plaintiff's letters.
- (12) The Second Defendant removed three (3) dual cabin trucks full of records and property seized on the raid of the 22nd February 2008 from the Plaintiff's residence.

PARTICULARS OF ITEMS SEIZE OR STOLEN

1. List of documents and properties that was seized on 22 February 2008 and was not receipted properly and was not returned.

PARTICULARS

<u>Item</u>	<u>Description</u>	<u>Value</u>
<u>1</u>	<u>Receipt Books from 1998</u>	
<u>2</u>	<u>Documents detailing vet expenses and what dogs received the treatments.</u>	
<u>3</u>	<u>Bank Statements</u>	
<u>4</u>	<u>Bank deposit books</u>	
<u>5</u>	<u>Cheque Butts</u>	
<u>6</u>	<u>Cash books</u>	
<u>7</u>	<u>Cash Flows</u>	
<u>8</u>	<u>Diaries</u>	
<u>9</u>	<u>Registered Pedigrees of Poodles</u>	
<u>10</u>	<u>Accounts payable</u>	

<u>11</u>	<u>Invoices & Statements</u>	
<u>12</u>	<u>utilities, rates, suppliers,</u>	
<u>13</u>	<u>Shipping Documents - Benji Kennels</u>	
<u>14</u>	<u>Copies of overseas shipping documents</u>	
<u>15</u>	<u>Records and pedigrees of Imported Dogs,</u>	
<u>16</u>	<u>Copies of Import documents for Dogs imported</u>	
<u>17</u>	<u>Documents for Imported Stocks of grooming products</u>	
<u>18</u>	<u>Files on Veterinary Tests results of Various descriptions e.g. SA, HD, PRA, General Health blood tests, Thyroid</u>	
<u>19</u>	<u>Vaccination Records from 1998 to present</u> <u>Vaccination cards</u> <u>Lists of dogs vaccinated</u> <u>List of dogs scheduled for vaccination</u>	
<u>20</u>	<u>Worming records from 1998 to present</u>	
<u>21</u>	<u>Kennel boarding records from 2002 to present</u>	
<u>22</u>	<u>Worming products</u>	<u>\$550</u>
<u>23</u>	<u>Medication/drugs all prescribed and legal held in office and kitchen</u>	<u>\$2,800</u>
<u>24</u>	<u>Syringes, needles (supplied by Vets & Physicians) held in my office & kitchen</u>	<u>\$150</u>
<u>25</u>	<u>Empty vaccination bottles held in my kitchen</u>	
<u>26</u>	<u>Breeding Whelping (birth) Register Records from 2000 to 2008</u>	
<u>27</u>	<u>Share Certificates that were held in Brown Attache Case, from desk, filing cabinets in my office – estimated value</u>	<u>\$40,000</u>
<u>28</u>	<u>Cash \$1,200 kept in filing cabinet</u>	<u>\$1200</u>
<u>29</u>	<u>Cash \$1,000 kept in book shelf</u>	<u>\$1,000</u>
<u>30</u>	<u>Personal Court Transcript from Magistrate court 1986</u>	
<u>31</u>	<u>Personal Court Transcript from Supreme Court 1998/1999</u>	
<u>32</u>	<u>Litigation files – privileged letters and documents from and to lawyers</u>	
<u>33</u>	<u>Contracts on Real Properties, property files</u>	
<u>34</u>	<u>Contracts & Agreements on sales, leases</u>	
<u>35</u>	<u>Correspondence from Lawyers 1975 to current</u>	
<u>36</u>	<u>Asset Files - Investment Real Estate Properties</u>	
<u>37</u>	<u>Share certificates paid about \$47,000 in 1987 now lost because of RSPCA now estimated value</u>	<u>\$140,000</u>
<u>38</u>	<u>Parliamentary Ombudsman re complaints about RSPCA</u>	
<u>39</u>	<u>Parliamentary Ombudsman re Beaudesert Shire Council</u>	
<u>40</u>	<u>Day by Month Calanders 2008, 2007, 2006,2005 etc..</u>	
<u>41</u>	<u>Cheques not banked \$12,000 now lost because of RSPCA.</u>	<u>\$12,000</u>
<u>42</u>	<u>Evidence kept in freezer of 8 puppies, 1 with neck broken by RSPCA & 7 red toy poodle puppies killed by RSPCA on 9/1/08</u>	
<u>43</u>	<u>2 rare natural Sapphire rings kept in desk drawer</u>	<u>\$8,000</u>
<u>44</u>	<u>1 x 18ct wedding ring</u>	<u>\$1,200</u>
<u>45</u>	<u>1 x ruby & diamond 10ct gold ring kept in dressing table drawer</u>	<u>\$3,000</u>

	<u>next to Plaintiff's bed,</u>	
46	<u>1 x 24ct gold ring set with jade</u>	<u>\$3,000</u>
47	<u>1 x 24 ct gold necklace 20cm long,</u>	<u>\$1,000</u>
48	<u>1 x 18ct yellow gold ruby (1.9ct) and diamond (0.7 ct) bracelet valued June 1993 at \$8580.00</u>	<u>\$20,000</u>
49	<u>other gold jewellery and natural gemstone items kept in my bedroom bedside drawers</u>	
50	<u>1 x Crystal chandelier table lamp in 24ct gold plate</u>	<u>\$7,000</u>
51	<u>2 x “ “ wall light fittings in 24 ct gold plate</u>	
52	<u>Antique Gas light over 100 years old</u>	<u>\$5,000</u>
53	<u>Tools belonging to my deceased husband (Electrical & Mechanical Professional Engineer) screw drivers, power tools, hammers etc.</u>	<u>\$2,000</u>
54	<u>Grooming Utensils held in Grooming box</u>	<u>\$5,000</u>
55	<u>Pearl necklace – made from ocean found pearls.</u>	<u>\$5,000</u>
56	<u>Novelty underwear panties - 3 pieces</u>	<u>\$320</u>
57	<u>Numerous items of hate mail received from anonymous people</u>	
58	<u>The balance of those dogs seized are now claimed by the Plaintiff being 48 dogs valued at \$47,000 each total.</u>	<u>\$2,256,000</u>
	<u>Total value of items taken recalculate</u>	<u>\$2,514,220</u>

Damages For Detinue By The Second Defendant And/Or Alternatively Theft By The Second Defendant

- (13) The Plaintiff claims damages from the Second Defendant estimated at \$2,514,220 estimated by reference to personal knowledge of the value of these items and some valuation certificates for similar items.

12. HUMILIATION OF THE PLAINTIFF BY THE SECOND DEFENDANT

- (1) The Plaintiff relies upon the pleadings previously pleaded:
1. Facts Common To All Causes Of Action
 2. Trespass by the Fourth Defendant.
 3. Defamation by fourth defendant
 4. Breach Of Right To Privacy By The Fourth Defendants.
 5. Trespass By The First Defendant.
 6. Breach Of Right To Privacy By The First Defendant and/or Second Defendant.
 7. Intentional Infliction Of Emotional Distress By The Second Defendant.
 8. Negligence By The Second Defendant
 9. Misfeasance In Public Office By The Second Defendant
 10. Breach Of Fiduciary Duty By The Second Defendant.
 11. Detinue By The Second Defendant And/Or Theft By The Second Defendant
- (2) The Plaintiff has suffered humiliation.

Damages for Humiliation Of The Plaintiff By The Second Defendant

- (3) The Plaintiff claims \$500,000 for humiliation estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;.
- (4) The said actions and behaviour by the Second Defendant was activated by ill-will against the Plaintiff, were humiliating to the Plaintiff and were occasioned in contumelious disregard for the Plaintiff's rights and feelings in consequence of which the Plaintiff is entitled to aggravated and/or exemplary damages against the Second Defendant in an amount of \$1,000,000. estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct; Australian Taxation Office tax avoidance penalties are 200%.

CAUSES OF ACTION AGAINST THE THIRD DEFENDANT

13. NEGLIGENCE BY THE THIRD DEFENDANT.

- (1) The Plaintiff relies on the above Pleadings:
 1. Facts Common To All Causes Of Action
 2. Trespass by the Fourth Defendant
 3. Defamation by fourth defendant
 4. Breach Of Right To Privacy By The Fourth Defendant.
 5. Trespass By The First Defendant.
 6. Breach Of Right To Privacy By The First Defendant and/or Second Defendant.
 7. Intentional Infliction Of Emotional Distress By The Second Defendant.
 8. Negligence By The Second Defendant
 9. Misfeasance In Public Office By The Second Defendant
 10. Breach Of Fiduciary Duty By The Second Defendant.
 11. Detinue By The Second Defendant And/Or Theft By The Second Defendant
 12. Humiliation Of The Plaintiff By The Second Defendant
- (2) The Third Defendant administers the "Animal Care and Protection Act 2001".
- (3) The Third Defendant under a contract with the Second Defendant had delegated the administration of the said act to the Second Defendant.
- (4) The Third Defendant had also appointed the Second Defendant employees as Inspectors under the said Act.
- (5) In Administering the said Act the Third Defendant had a public duty to ensure the public were not exploited and harmed by the Administration of the said Act for improper purposes or caused harm, damages, losses and suffering.

- (6) The Third Defendant was aware or should have been aware that the Second Defendant and its inspectors were making public comments about their seizure of animals under the said Act.
- (7) The Third Defendant was aware that the public comments made by the Second Defendant were a breach of 5.1 of the said contract “RSPCA will not, and will ensure that its inspectors do not, make any public comment on any investigations that they are involved in, other than to say the matter is “under investigation”, pending of current and may compromise a person’s rights under law.”
- (8) The Third Defendant was aware or should have been aware that the Second Defendant and its inspectors were inviting the media to come with them when exercising their powers under the said Act. Section 5.4 of the said contract states *RSPCA will not and will ensure that its officers do not, permit or invite or facilitate entry of the media onto a property under investigation.*”
- (9) The Third Defendant was aware or should have been aware that the Second Defendant conducted campaigns against groups and individuals in the media which would have the foreseeable of compromising these people’s rights under natural justice and common law. Section 5.2 of the said contract states “RSPCA will, and ensure its inspectors will, at all times, use their best endeavours to ensure that a person’s rights under natural justice and common law are not compromised and that due process of law associated with the complaint is not compromised..”
- (10) The Third Defendant was aware or should have been aware of the TV Show RSPCA Animal Rescue and that the First Defendant’s camera crew were traveling with the Second Defendant’s inspectors and going onto people’s properties in the Second Defendant’s exercise of their powers under the said Act.
- (11) The Third Defendant was aware or ought to have been aware that the Second Defendant Inspectors featured on the RSPCA Animal Rescue Television Shows.
- (12) The Third Defendant was made aware of the conduct of the Second Defendant towards the Plaintiff in letters written to the Third Defendant by the Plaintiff.

PARTICULARS

- a. Letters to the then Minister for Department of Primary Industries dated:
 - i. 17 March 2008 and;
 - ii. 28 March 2008;
 - iii. 15 April 2008 and;
 - iv. 18 April 2008 and;
 - v. 28 April 2008 and;
 - vi. 13 June 2008 and;
 - vii. 21 June 2008 and;

- b. Letters from the then Minister for Department of Primary Industries dated:
- viii. 25 March 2008 and;
 - ix. 14 April 2008 and;
 - x. 22 May 2008 states all the Plaintiff's letters have been forwarded to the Second Defendant and;
 - xi. 15 June 2008 and;
 - xii. 15 July states all the Plaintiff's letters have been forwarded to the Second Defendant 2008.
- (13) The Third Defendant by virtue of the contract between the Third Defendant and the Second Defendant had a power and ascendancy and influence over the Second Defendant and over the Plaintiff.
- (14) The Third Defendant failed in their duty to exercise this power to enforce the conditions of the contract and/or properly administer their contract with the Second Defendant and to properly administer the said Act.
- (15) The Third Defendant was aware or should have been aware of all the publicity surrounding the Plaintiff and the Second Defendant's seizure of the Plaintiff's dogs on the 9 January 2008.
- (16) The Third Defendant was aware or should have been aware of the public hatred the Plaintiff would suffer consequent upon this publicity.
- (17) The Third Defendant:-
- l. Acted with reckless indifference to the proper exercise of power under the said Act;
 - m. Did not act in good faith nor honestly in the performance of a public office for the public good;
 - n. Acted or failed to act improperly to deny the plaintiff natural justice and her rights under common law;
 - o. Acted with reckless indifference or failed to act to the loss and damage that might foreseeably be suffered by the plaintiff;
 - p. Allowed the Second Defendant conduct performed in purported exercise of their powers as Inspectors under the said Act.
- (14) The Third Defendant failed in their duties to investigate the Plaintiff's complaints.
- (18) The Third Defendant gained in public esteem in that the Public would be caused to believe that the films/videos along with comments shown on Television and the

other media demonstrates that the said Act it was administrating was “producing results”.

Damages for Negligence from the Third Defendant.

- (19) The Third Defendant failed in their duty and as a result of this failure contributed to the behaviour of the Second Defendant by condoning it. The result of the Third Defendant’s negligence was:

PARTICULARS

- a. The Plaintiff suffered losses due to the conduct of the Second Defendant releasing film/video, photos and comments to the media and theft/detinue by the Second Defendant.
- (20) The Plaintiff claims damages from the Third Defendant estimated at \$500,000 estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Defendants conduct.
- (21) The Third Defendant has made no attempt to mitigate the Plaintiff’s losses.
- (22) The Plaintiff claims exemplary damages from the Third Defendant estimated at \$2,000,000 estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Defendants conduct.

Exemplary Damages from Second Defendant for Misfeasance in Public Office

- (23) The Plaintiff seeks exemplary damages for their Breach of fiduciary duty from the Second Defendant of \$4,000,000. Tax Office avoidance penalties were 200%.
- (24) The Plaintiff claims Special damages as detailed in 15. SPECIAL DAMAGES.

DAMAGES FROM ALL DEFENDANTS

14. SPECIAL DAMAGES

- (1) The Plaintiff suffered hatred and violence from the public, resulting in considerable nuisance and inconvenience to the Plaintiff which any reasonable person would attribute, to have been caused by or contributed to by all the Defendants’ conduct towards the Plaintiff.

PARTICULARS

- (h) Offensive material was dropped and or mailed to the Plaintiff in the Plaintiff’s letterbox.

- (i) When shopping, people came up to the Plaintiff in public places and abused her.
 - (j) Members of the public came on the Plaintiff's property to abuse and assault her verbally and threw stones, cans and bottles at her.
 - (k) The Plaintiff had rubbish dumped on her property.
 - (l) The Plaintiff was physically assaulted by a man with a bottle and was hit on the head with the bottle.
 - (m) The Plaintiff suffered many months of continuous abusive and threatening telephone calls, caused the Plaintiff to fear she would be assaulted and then murdered. Statements included:
 - v. Calling her vile names, offensive racist descriptions;
 - vi. Promising her they would punish her for her evil acts;
 - vii. Threatening to treat her "exactly as she had treated those poor dogs";
 - viii. Telling her, she deserved to be "beaten to death".
- (2) At all times material to this proceeding,
- g. The Defendants well knew that their published materials were and or were likely to have an adverse effect on the Plaintiff.
 - h. The Defendants had failed, refused and/or neglected to make a public apology to the plaintiff.
- (3) Since the 13th January 2008, and as a consequence of or likely to be a consequence of the Defendants defamation, the Plaintiff suffered fear and terror and emotional breakdowns. The Plaintiff was considerably inconvenienced:-
- i. The Plaintiff had to shop at night to avoid people for fear of abuse from them;
 - j. The Plaintiff had to shop in company;
 - k. The Plaintiff became debilitated with dread and fear;
 - l. The Plaintiff has suffered memory losses and has been unable to cope and has required permanent and constant support.
 - m. The Plaintiff became physically sick and was vomiting for no apparent reason;

- n. The Plaintiff could not go anywhere without company;
- o. The Plaintiff could no longer go to her club as several people there had threatened and abused her and she was shunned;
- p. The Plaintiff was shunned by her many customers, people who had purchased their pets from her, her friends and acquaintances.
- q. The Plaintiff was unable to have witnesses come forward to support her in her Court Appeal in the Magistrates Court for the return of her poodles;
- r. The Plaintiff in fear of further abuse and had to stop answering the telephone;
- s. The Plaintiff lived in fear afraid for over seven months to have her lights on at night fearing someone would see she was home and come to carry out their threats to murder her or worst beat her to death as they had threatened over the telephone;
- t. By reason of the publication of the words and meanings set forth in paragraphs above respectively herein, the plaintiff has been injured in her character, creditability and good reputation;
- u. By reason of the publication of the words and meanings set forth in paragraphs above herein, the plaintiff's business Waterford Boarding Kennel and Cattery has been injured in character, creditability and good reputation;
- v. By reason of the publication of the words and meanings set forth in paragraphs above herein, the plaintiff's NEIGER Poodles has been injured and will continue to suffer in their character, creditability and good reputation;
- w. By reason of the publication of the words and meanings set forth in paragraphs above herein, the Plaintiff can never again enjoy the success or gratification she had received and enjoyed in her passion of breeding quality poodles for the world;
- x. The Plaintiff has been and will be shunned in her private life and in her public life as a breeder of poodles forever;
- y. All the Plaintiff's previous boarding customers have deserted her;
- z. By reason of the nature of the statements the Plaintiff was open to public ridicule and contempt;
- aa. In January 2008 her anti depressant medication was increased, and subsequently further increased on two occasions, as was other medications which became necessary since January 2008;

- bb. The Plaintiff became increasingly depressed, anxious and upset and fearful of answering the telephone for over 2 years.
 - cc. The Plaintiff was totally different, isolated herself and had been reduced on occasions to tears;
 - dd. The Plaintiff had nightmares which woke her during the night;
 - ee. The Plaintiff had to have live in support;
- (4) The said matters herein before pleaded caused losses and damages to the Plaintiff by reason of the negligence of, and/or nuisance by, and/or intention to cause injury and loss, by the Defendants, particulars of which are as follows-
- (f) Failing to take any or any adequate precautions for the safety of the Plaintiff;
 - (g) Exposing the Plaintiff to the risk of injury which could have been avoided by reasonable care on the part of the Defendants;
 - (h) Failing to observe that the Plaintiff could be and was in a position of peril in the circumstances;
 - (i) Failing to warn the Plaintiff that she could be or was in a position of peril in the circumstances;
 - (j) Knowingly and intentionally acting and behaving in a manner, which was likely to cause injury to the Plaintiff by inciting others to harm her, when a reasonably prudent person would not have done so.
 - (k) The Defendants has made no attempt to mitigate the Plaintiff's losses.
- (5) The Plaintiff has incurred a need for gratuitous care, assistance and services from others in the form of assistance with household and domestic tasks and transport, and her fear of being alone in her own home compensable in damages, in the sum of \$200,000. (Estimated on a global basis);
- (6) The Plaintiff's NEIGER poodles have lost their goodwill value estimated at \$200,000. The Plaintiff was getting a premium price for her World Famous Poodles. Now these dogs have a pet value price. (Estimated based on the nature and value of orders and overseas sales of her dogs).

PARTICULARS

- a. The Plaintiff had been operating an established Boarding Kennel and Cattery Industry since 1992 and had a large regular customer base. The Plaintiff's regular customers had regularly boarded their pets with the

Plaintiff had held the Plaintiff in high esteem for her reliability, honesty, knowledge, care and compassion for their pets. These customers have now disappeared.

- (7) The Plaintiff was a retired professional accountant who had been held in high esteem for her honesty, integrity and reliability in her professional career prior 1992 by her reputable peers and employers.
 - (8) The Plaintiff's good reputation obtained from spending the whole of her adult life establishing and maintaining, was destroyed by the Defendants' conduct. The Plaintiff has been and will be shunned in her private life and in her public life as a breeder of NEIGER pedigreed poodles forever.
 - (9) Damages to her good reputation as a poodle breeder and loss of customers and sale price in the sum of \$4,421,052.00 being the estimated present value at an interest rate of 9.5% of the damage to her good reputation of the above defamatory comment causing loss of sale prices of poodle puppies of from \$2000 to \$6000 per puppy and loss of sale volume. Estimated income would have been 120 puppies/year sold at an average price of \$3,500 each being \$420,000/per year.
 - (10) The Second Defendant has seized the Plaintiff's records on the 22nd February 2008 and the proper calculations of economic losses cannot be performed. An estimate of the **economic net boarding income in one normal year is.**
 - a. The calculation is based as follows: **Average canine boarders is 75 dogs daily for 355 days per year at \$15/dog a day is \$363,875. The cost of feeding 75 dogs/day for 355 days costs \$ 36,900 and other costs of \$7,100 being disinfectants, washing detergent, hessian sacks for the dog beds, vehicle expenses, electricity for refrigerators and freezers estimated at \$20/day. The 75 dogs would consume 2 bags x 20 kgs bags of dog food a day at \$22/bag is \$44/day plus 20 kgs of raw beef, lamb or chicken and bones x \$3/kg is \$60/day. **Net annual income for boarding 75 dogs is \$363,875 less costs of \$44,000 is \$319,875. The Plaintiff claims three years income from the Second Defendant at \$959,625.00****
 - b. Average feline boarders is 20 cats daily for 355 days per year at \$10/cat a day is \$ \$71,000. Costs for maintaining 20 cats for 355 days is \$8,450 The cost of feeding 20 cats daily is \$20/day. Other costs is \$6/day included cat litter, disinfectant, deodorant, detergent. **Net annual income for boarding 20 cats is \$62,550. The Plaintiff claims three years income from the Second Defendant being \$187,650.00**
- (11) **Total of Special Damages \$5,968,372.75**
 - (12) **The Plaintiff claims Special Damages from each defendant in equal shares of \$2,589,430.25 each.**

- a. The First Defendant \$1,492,372.75
- b. The Second Defendant \$1,492,372.75
- c. The Third Defendant \$1,492,372.75
- d. The Fourth Defendant \$1,492,372.75

15. TOTAL OF DAMAGES

The plaintiff claims the following relief:

(1)	<u>TOTAL LOSS AND DAMAGE</u>	
	FIRST DEFENDANT	\$ 3,676,702.00
	SECOND DEFENDANT	\$31,812,247.00
	THIRD DEFENDANT	\$ 3,992,081.75
	FOURTH DEFENDANT	\$ 4,948,783.75
	<u>TOTAL FROM ALL DEFENDANTS</u>	<u>\$44,429,814.50</u>

- (2) Interest at the rate of 9% thereon according to law and pursuant to the provisions of Section 47 of the Supreme Court Act 1995 from the 15th December 2008 to the date of judgment or earlier payment herein.
- (3) Costs.

The plaintiff elects trial by jury.

Signed:

Description: Geraldine Fook Fong Robertson

Date: November 2010

NOTICE AS TO DEFENCE

Your defence must be attached to your notice of intention to defend.

~~AMMENDED STATEMENT OF CLAIM~~

~~This claim in this proceeding is made in reliance on the following facts.~~

- (7) — ~~The Plaintiff is a 64 years old female person widow of Chinese Decent residing in Buccan/Logan area.~~
- (8) — ~~The Plaintiff was a highly respected and skilled professionally qualified accountant who took an early retirement in 1990 to focus on her passion for the poodle breed.~~
- (9) — ~~The Plaintiff then carried on and intended to carry on a business under the name of Waterford Boarding Kennels and Cattery.~~
- (10) — ~~In the days preceding the 9th January 2008 the area of Buccan and Logan had suffered the worst flooding rains for twenty years.~~
- (11) — ~~The Plaintiff's kennels had suffered with run off carrying dirt and debris into her kennels. The Plaintiff's property suffered storm and flood damage.~~
- (12) — ~~The Plaintiff had begun the clean up process with two kennels already cleaned by the 9th January 2008.~~
- (13) — ~~The Plaintiff had been and intended to continue breeding her world famous Pedigreed NEIGER Poodles for sale to breeders and pet owners in Australia and in countries around the world namely Hong Kong, Japan, Singapore, United Kingdom, United States of America, Canada, Europe, Asia, South East Asia as the Plaintiff had done since 1988.~~
- (14) — ~~The first Defendant, Imagination Television Limited, is a media organisation and produces a TV show called RSPCA Animal Rescue in conjunction with television Channel 7 and the Second Defendant, RSPCA.~~
- (15) — ~~The Second Defendant, RSPCA, Administers the "Animal Care and Protection Act 2001" under a contract with the then Department of Primary Industries and Fisheries.~~
- (16) — ~~This contract expressly states "5.1 RSPCA will not, and will ensure that its inspectors do not, make any public comment on any investigations that they are involved in, other than to say the matter is "under investigation", pending of current and may compromise a person's rights under law."~~
- (17) — ~~This contract expressly states "5.4 RSPCA will not and will ensure that its officers do not, permit or invite or facilitate entry of the media onto a property under investigation."~~
- (18) — ~~Section 215, Protection from liability, of the Animal Care and Protection Act protects the Second Defendant and the then Department of Primary Industries and Fisheries from liability with provisions. The relevant sections of the legislation are:-~~

“215, Protection from liability

.....

(2) A relevant person is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.

(3) If subsection (2) prevents a civil liability attaching to a relevant person, the liability attaches instead to the State.

(4) In this section — civil liability includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.”

~~(19) — The Chief Executive Officer, and thus the then Minister for Primary Industries and Fisheries in Administration of the said Act has a duty of care to ensure that the Administration of the Act is conducted in a proper manner as specified in the said Act.~~

~~(20) — The Chief Executive Officer, and thus the then Minister for Primary Industries and Fisheries in Administering the said Act has a duty of care to ensure that the Administration of the Act is done in a manner that is not in breach of the Contract between RSPCA and the then Department of Primary Industries.~~

~~(21) — The Chief Executive Officer, and thus the then Minister for Primary Industries and Fisheries in Administration of the said Act has a duty of care to ensure that the Administration of the Act is conducted in a proper manner as per the contract of employment and or job description with his Departmental Staff in the discharge of their Departmental Staff duties.~~

~~(22) — When the Chief Executive Officer, and thus the then Minister for Primary Industries becomes aware that the Administration of the Act is causing personal harm the said Minister have a fiduciary duty to immediately or as soon as possible look into the complaints to prevent further harm being done.~~

~~(23) — On the 9th January 2008 the Second Defendant, RSPCA, with a warrant under the Animal Care and Protection Act 2001 accompanied by Imagination Television film/video crew, Courier Mail reporters and photographer, other media reporters went to the Plaintiff’s address.~~

~~(24) — On the 9th January 2008 the Second Defendant, RSPCA, seized all the Plaintiff’s dogs both owned by her and in her care.~~

b. — The Plaintiff is not litigating any matters directly related to the seizure of her dogs in this Claim.

c. — The Plaintiff has Appealed to the Magistrates Court for her dogs to be returned to her, the Appeal ended on the 27 November 2008 and to this date, 30 June 2009 no decision has been made. This is Brisbane Magistrates Court number M6213/08.

- ~~(25) — The Plaintiff, after service of the Warrant on the 9th January 2008, clearly stated to all present that she would only allow RSPCA to enter her premises.~~
- ~~(26) — Any parties other than RSPCA and the Police on the Plaintiff's property were trespassing.~~
- ~~(27) — The First Defendant's, Imagination Television's, camera crew entered upon the Plaintiff's property together with the Second Defendant.~~
- ~~(28) — The First Defendant's camera crew took film/video inside the Plaintiff's house, in her bedroom in her kitchen, and all through her 5 acre developed property.~~
- ~~(29) — The First Defendant, Imagination Television Limited claimed the copyrights of these film/videos.~~
- ~~(30) — The Second Defendant had a copy of this film/videos.~~
- ~~(31) — **The Defendants since the 9th January 2008 conducted a public campaign against the Plaintiff.**~~
- ~~a. — **The Defendants campaign caused public hatred of the Plaintiff.**~~
- ~~b. — The First Defendant had made a movie ready to be released “after the legal actions” by the Plaintiff for television Channel 7 RSPCA Animal Rescue TV show about the Plaintiff and her poodles.~~
- ~~c. — From the 9th January 2008 video onwards photographs, videos and defamatory comments about the Plaintiff, that a reasonable person would understand would cause hatred of the Plaintiff, her property and her poodles were shown on National Television and were reported in Newspapers and on the Internet.~~

PARTICULARS

- ~~(n) — The photographs of the puppies temporary housed in holding pens/kennels together with a commentary that the Plaintiff was puppy farming causing the public to believe the Plaintiff permanently housed those puppies in those temporary holding pens;~~
- ~~(o) — Photographs and video of dogs in the back yard holding pens were published in Newspapers and TV with misleading comments.~~
- ~~(p) — Photographs and video in (b) above, were taken from inside the Plaintiff's property on the 9 January 2008;~~

- ~~(q) Photographs and videos of dogs in both the kennels located in different areas of the 5 acres were published in Newspapers and TV with misleading comments~~
- ~~(r) Photographs and video in (d) above, were taken from inside the Plaintiff's property on the 9 January 2008;~~
- ~~(s) Statements that the Plaintiff's dogs were malnourished and starving;~~
- ~~(t) Photographs and video of the Plaintiff's dogs being clipped by members of the Poodle Club of Queensland Inc. at the Second Defendant premises were published in Newspapers and TV with misleading comments;~~
- ~~(u) Statements that the Plaintiff's dogs were packing and eating each other made by the Second Defendant to others and to the media;~~
- ~~(v) Statements made by the Defendants included:-
 - ~~a. that the dogs were neglected;~~
 - ~~b. that the dogs were diseased;~~
 - ~~c. that the dogs were worm infested;~~
 - ~~d. that the dogs had maggots;~~
 - ~~e. that the dogs were full of fleas;~~
 - ~~f. that the dogs had infected eyes;~~
 - ~~g. that the dogs had infected ears;~~
 - ~~h. that the dogs had skin problems;~~
 - ~~i. that the dogs had urine burnt paws;~~
 - ~~j. that the Plaintiff was living off the proceeds of sales from her dogs;~~
 - ~~k. that the Plaintiff was funding the Plaintiff's retirement with her dogs;~~
 - ~~l. that the dogs were living on their own urine and faeces;~~
 - ~~m. that the kennels had not been cleaned in years;~~
 - ~~n. that the dogs were unsociable;~~~~

- ~~o. that the Plaintiff lived in filth;~~
 - ~~p. that the smell “attracted men who liked that sort of thing”;~~
 - ~~q. included “those poor neglected poodles”;~~
 - ~~r. that the dogs were “dogs housed in appalling living conditions”;~~
 - ~~s. that the dogs were “dogs infested with wounds and maggots”;~~
 - ~~t. that the dogs had “open wounds”;~~
 - ~~u. that the “dogs had fleas”;~~
 - ~~v. that the dogs had “urine burnt paws”;~~
 - ~~w. that the dogs were “matted with faeces and urine”;~~
 - ~~x. that the dogs were “infested with hookworms”~~
 - ~~y. that the “dogs not clipped for years”~~
 - ~~z. that the dogs had “untreated infected eyes and ears”~~
-
- ~~d. Much of the media reporting did, or a reasonable person would expect to, incite others to have a hatred of the Plaintiff and want to punish the Plaintiff and/or see the Plaintiff punished.~~
 - ~~e. The Second Defendant recruited members of the Poodle Club of Queensland Inc. to their campaign to act against the Plaintiff to stop the Plaintiff from getting her dogs back.~~
 - ~~f. From the 9th January 2008 the Second Defendant gave most of the Plaintiff’s poodles to members of the Poodle Club of Queensland Inc. calling it fostering.~~
 - ~~g. The Second Defendant had organised members of the Poodle Club of Queensland Inc. to groom the Plaintiff’s dogs.~~
 - ~~h. The Second Defendant conducted a “Save the Poodles Telethon” to raise money.~~
 - ~~i. The “Save the Poodles Telethon” increased public hatred of the Plaintiff.~~
 - ~~j. The Second Defendant raised considerable donations from their campaign by demonising the Plaintiff seeking funds for the care of the Plaintiff’s poodles.~~

- ~~k. The Second Defendant conducted a “Save the Poodles Petition” emailing this to members of the public collecting signatures and submitted these petitions to judges and members of the legal profession.~~
 - ~~l. These “Save the Poodles Petition” increased public hatred of the Plaintiff.~~
 - ~~m. The Second Defendant when they conducted the “Save the Poodles Telethon” and the “Save the Poodles Petition” were conducting a public campaign against the Plaintiff.~~
 - ~~n. The Second Defendant stated to the public that the Plaintiff’s dogs were neglected, were covered in urine and faeces, had maggots, were malnourished, and other derogatory statements of the Plaintiff and her dogs~~
 - ~~o. The Second Defendant invoked the public to have hatred of the Plaintiff.~~
 - ~~p. The Second Defendant threatened the Plaintiff with further raids to seize the dogs if she conducted her Waterford Boarding Kennel & Cattery business.~~
 - ~~q. The Second Defendant Inspectors told other pet owners and breeders nasty stories about the Plaintiff. An example was the Plaintiff’s “dogs were packing and eating each other”.~~
- ~~(32) The Plaintiff states that none of the published and spoken material was in the public interest.~~
- ~~(33) The published materials clearly identified the Plaintiff by her full name and the Plaintiff’s business and residence address, Waterford Boarding Kennels and Cattery and NEIGER poodles.~~
- ~~(34) On and Since the 9th January 2008, the Defendants have or caused the Plaintiff on diverse occasions:–~~
- ~~(a) defamatory statements about the Plaintiff to people, in the media and on the Internet. Defamation is claimed from the 6th April 09 as per order of Dutney J.~~
 - ~~(b) bullied the Plaintiff;~~
 - ~~(c) racially vilified the Plaintiff;~~
 - ~~(d) intentional infliction of emotional distress upon the Plaintiff;~~
 - ~~(e) breached their fiduciary duty to the Plaintiff;~~
 - ~~(f) breach their duty of assistance to the Plaintiff;~~
 - ~~(g) acted negligently in failing to assist the Plaintiff;~~

- ~~(h) breached legal professional privilege;~~
- ~~(i) misfeasance in a public office;~~
- ~~(j) invaded the Plaintiff's privacy;~~
- ~~(k) harassed the Plaintiff;~~
- ~~(l) intentionally inflicted physical harm upon the plaintiff;~~
- ~~(m) caused the Plaintiff nuisance;~~
- ~~(n) stalked the Plaintiff;~~
- ~~(o) acts of malice to the Plaintiff;~~
- ~~(p) intimidated the Plaintiff;~~
- ~~(q) trespass on the Plaintiff's property;~~
- ~~(r) assaulted of the Plaintiff;~~
- ~~(s) were negligent towards the Plaintiff;~~
- ~~(t) caused the plaintiff loss of income from her business;~~
- ~~(u) the Plaintiff was unable to trade in her business;~~
- ~~(v) caused the Plaintiff loss of reputation;~~
- ~~(w) threatened the Plaintiff with violence;~~
- ~~(x) stole personal property belonging to the Plaintiff;~~
- ~~(y) caused the Plaintiff embarrassment;~~
- ~~(z) caused the Plaintiff hardship;~~
- ~~(aa) ——— caused the Plaintiff to lose her career.~~

~~(35) The Second Defendant's campaign caused the Plaintiff to suffer many months of violent verbal, physical, mental assaults, confrontations, harassments and attacks on her and her properties.~~

- ~~(a) Offensive material was dropped and mailed to the Plaintiff in the Plaintiff's letterbox.~~
- ~~(b) When shopping, people came up to her in public places and abused her.~~

- ~~(c) The Plaintiff had people come to her on her property and assault her verbally and throw stones, cans and bottles at her.~~
- ~~(d) The Plaintiff had rubbish dumped onto her property.~~
- ~~(e) The Plaintiff was physically assaulted by a man with a bottle and was hit on the head with the bottle.~~
- ~~(f) The Plaintiff suffered many months of continuous abusive and threatening telephone calls which caused the Plaintiff to fear she would be murdered.
Statements included:~~
- ~~i. calling her vile names;~~
 - ~~ii. telling her they would punish her for her evil acts;~~
 - ~~iii. threatening to treat her “exactly as she had treated those poor dogs”;~~
 - ~~iv. she deserved to be “beaten to death”.~~
- ~~(g) The Second Defendant was stalking the Plaintiff by monitoring and adding comments to Internet forums about the Plaintiff.~~
- ~~(h) The Second Defendant published in the media statements that were defamatory to and stalking of the Plaintiff.~~
- ~~(i) The Second Defendant contacted the Plaintiff’s neighbours and began discussions with them that clearly placed the Plaintiff in a false light.~~
- ~~(j) The Second Defendant contacted the Plaintiff’s neighbours and persuaded these neighbours to spy on her.~~
- ~~(k) The Second Defendant stalked the Plaintiff by visiting the Plaintiff in late evening hours like 9:40 pm, with their head lights/spot lights pointing directly into the Plaintiff’s house entrance in her isolated acreage property where there is no street lighting and her next door neighbours were over 100 metres from her home to serve documents.~~
- ~~(l) The Second Defendant performed service of documents with two cars when the Second Defendant knew the Plaintiff was living alone in fear and terror, receiving death threats, abusive letters, other threats, assaults, and harm from the public that was incited by the Second Defendant.~~
- ~~(36) In respect of the various activities by the Second Defendant, as referred to in the preceding paragraphs, the Plaintiff has consistently and persistently requested of the Second Defendant to cease and desist such activities and behaviour.~~

- ~~(37) — Despite requests by the Plaintiff in letters written to the then Minister of Primary Industries and Fisheries and these letters were forwarded to the Second Defendant CEO, Mark Townend, the Second Defendant persisted with that behaviour and activities referred to above hereof.~~
- ~~(38) — The Chief Executive Officer and the Minister of Primary Industries were made aware that the Second Defendant was campaigning against the Plaintiff and that the Plaintiff was suffering harm.~~
- ~~a. — Many letters were written by the Plaintiff to the Minister which would have alerted him to the Second Defendant's campaign against the Plaintiff;~~
 - ~~b. — Phone calls were made to the Minister's Office staff, which directly alerted the staff to the harm caused to the Plaintiff. Staff telephoned was Fiona Ferguson;~~
 - ~~c. — The TV Stations, news papers and the Internet were publicising the defamatory stories initiated by the Second Defendant and would have been well aware of the Second Defendant's campaign against the Plaintiff;~~
 - ~~d. — The Plaintiff appealed to the Chief Executive Officer, the then Department of Primary Industries and Fisheries for the return of her dogs and in this Appeal the conduct of the Second Defendant was made known.~~
- ~~(39) — The Chief Executive Officer and the Minister of Primary Industries were negligent in their duty of care and in their fiduciary duty to the Plaintiff.~~
- ~~(40) — At all times material to this proceeding, the Second Defendant well knew that their behaviour and activities were and/or were likely to have an adverse effect on the Plaintiffs health and well being.~~
- ~~(41) — Since the 9th January 2008, and as a consequence of the Second Defendant's continued behaviour and activities, the Plaintiff suffered fear and terror and an emotional breakdown whereupon the Plaintiff was injured.~~
- ~~(42) — Despite the Plaintiff having suffered injury, as referred to above hereof, and despite the Second Defendant being aware of such injury, the Second Defendant's behaviour and activities, as referred above hereof, persisted, whereupon the Plaintiff was further injured.~~
- ~~(43) — The said matters herein before pleaded and the personal injuries and consequential loss and damage suffered by the Plaintiff were caused by reason of the negligence of and/or nuisance by and/or intention to cause injury and loss by the Second Defendant, particulars of which are as follows —~~
- ~~(m) failing to take any or any adequate precautions for the safety of the Plaintiff;~~

- ~~(n) exposing the Plaintiff to the risk of injury which could have been avoided by reasonable care on the part of the Second Defendant;~~
 - ~~(o) failing to observe that the Plaintiff was in a position of peril in the circumstances;~~
 - ~~(p) failing to warn the Plaintiff that she was in a position of peril in the circumstances;~~
 - ~~(q) knowingly and intentionally acting and behaving in a manner which was likely to cause injury to the Plaintiff, when a reasonably prudent person would not have done so.~~
- (44) — As a result of the matters aforesaid, the Plaintiff suffered the following personal injuries:—
- ~~(ff) chronic post traumatic stress disorder;~~
 - ~~(gg) fainting spells;~~
 - ~~(hh) blackouts;~~
 - ~~(ii) sleep disorder;~~
 - ~~(jj) nightmares;~~
 - ~~(kk) fear and terror;~~
 - ~~(ll) fear of being alone;~~
 - ~~(mm) — high blood pressure;~~
 - ~~(nn) panic attacks with uncontrolled sobbing;~~
 - ~~(oo) memory loss;~~
 - ~~(pp) chest pains;~~
 - ~~(qq) distress;~~
 - ~~(rr) headaches;~~
 - ~~(ss) lethargy;~~
 - ~~(tt) vomiting;~~
 - ~~(uu) loss of appetite;~~

~~(vv) emotional distress;~~

~~(ww) —shock, pain and discomfort;~~

~~(xx) Stress related skin rash and itchiness.~~

~~(45) —As a result of the Plaintiff's personal injuries, the Plaintiff has:-~~

~~(f) —suffered and will continue to suffer considerable pain, suffering and inconvenience;~~

~~(g) —required medical and other similar treatment and will require further such treatment in the future;~~

~~(h) —suffered past economic loss and an impairment of her earning capacity, which has and may be productive of financial loss to the Plaintiff;~~

~~(i) —received gratuitous assistance and quasi-nursing services from others and may require further such assistance and services in the future;~~

~~(j) —received help in maintaining her property;~~

~~(k) —incurred special damages and other out of pocket expenses and may incur further such damages and expenses in the future;~~

~~(l) —The Plaintiff is fearful of being alone in her own home where she used to enjoy her privacy and solitude. This has caused her further loss of privacy and additional expenses and chores from having a helper stay with her;~~

~~(m) —lost some of the amenities of life;~~

~~(n) —and has been otherwise damnified.~~

~~(46) —As a result of the Second Defendant's behaviour the Plaintiff was considerably inconvenienced:-~~

~~a. —The Plaintiff had to shop at night to avoid people for fear of abuse from them;~~

~~b. —The Plaintiff had to shop in company;~~

~~c. —The Plaintiff could not go anywhere without company;~~

~~d. —The Plaintiff could no longer go to her club as several people there had threatened and abused her;~~

- ~~e. The Plaintiff in fear of abuse had to stop answering the telephone;~~
- ~~f. The Plaintiff in fear was afraid for over six months to have her lights on at night fearing someone would see she was home and come and carry out their threats to murder her or worst beat her to death as they had said over the telephone.~~

~~(47) As a result of the Second Defendant's behaviour the Plaintiff suffered harm to:-~~

- ~~a. her good reputation;~~
- ~~b. the good reputation of her world Famous Neiger Poodles;~~
- ~~c. the good reputation of her business of operating her kennels;~~
- ~~d. the good reputation of her business breeding and selling her world famous Neiger Poodles;~~
- ~~e. the Plaintiff's real, business and personal properties has lost value;~~
- ~~f. impossible to return to professional employment as an Accountant or a Financial Analyst.~~
- ~~g. her ability to earn an income from her businesses;~~
- ~~h. Loss of the goodwill value of her kennel;~~
- ~~i. Loss of the goodwill value of her poodle breeding business.~~

~~(48) The Plaintiff was preparing her Appeal to Department of Primary Industries due on Monday 25th February 2008.~~

~~(49) The Second Defendant tried to ambush this Appeal for the return of her dogs.~~

~~(50) On the 22nd February 2008 the Second Defendant, with a warrant under the Animal Care and Protection Act 2001, seized and/or stole without the Plaintiff being present the Plaintiff's:~~

- ~~(o) business records;~~
- ~~(p) kennel records;~~
- ~~(q) pedigreed records and certificates;~~
- ~~(r) tax records;~~

- ~~(s) — the Plaintiff's evidence that she had been spending monies on her dogs;~~
 - ~~(t) — evidence the Plaintiff had orders for her puppies;~~
 - ~~(u) — evidence of which bitches were mated to whom and dates these pregnant bitches were expected to deliver their puppies;~~
 - ~~(v) — vaccination records of whom was due for booster vaccinations;~~
 - ~~(w) — contact details and orders from respective customers;~~
 - ~~(x) — personal records;~~
 - ~~(y) — jewellery;~~
 - ~~(z) — cash;~~
 - ~~(aa) — antiques;~~
 - ~~(bb) — computer;~~
 - ~~(cc) — legal professional privilege documents — the Plaintiff's communications with her then lawyers.~~
- ~~(51) — The Warrant was to look for sick and injured dogs and only included the seizure of records related to those dogs.~~
- ~~(52) — Files were deleted from the Plaintiff's computer when it was finally returned on Court orders on 4 June 2008.~~
- ~~(53) — On the 22nd February 2008 The Second Defendant's Inspectors went through the Plaintiff's handbag when the Plaintiff was not present.~~
- ~~(54) — On the 22nd February 2008 The Second Defendant's Inspectors searched the Plaintiff's bedroom without the Plaintiff being present where her jewellery and wedding ring and some personal records were stored.~~
- ~~(55) — On the 22nd February 2008 The Second Defendant's Inspectors stole Cash and other objects worth some \$80,000.~~
- ~~(56) — The Plaintiff reported this theft of property to the Police.~~
- ~~(57) — The Plaintiff reported this theft of property to the Chief Executive Officer and the then Minister of Primary Industries & Fisheries.~~

- a. ~~Many letters were written by the Plaintiff to the Minister which would have alerted him to the Second Defendant's complaint that personal property was stolen by the Second Defendant;~~
- (58) ~~The Chief Executive Officer and the Minister of Primary Industries failed in their duties to investigate the Plaintiff's complaints.~~
- (59) ~~That the Animal Care and Protection Act was being used for an improper purpose should have concerned the Chief Executive Officer and the Minister of Primary Industries.~~
- (60) ~~The Chief Executive Officer and the Minister of Primary Industries were negligent in their duty of care and in their fiduciary duty to the Plaintiff.~~

PARTICULARS OF DAMAGE

- (61) ~~In the premises, the Plaintiff, on account of her losses and injuries, has suffered losses and damages of the nature and in the amounts as follows:-~~

~~the Plaintiff has experienced pain, suffering and loss of amenities of life, compensable in general damages in an amount of \$300,000.00. estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;~~

- a. ~~the said actions and behaviour by the Defendants were activated by ill-will against the Plaintiff, were humiliating to the Plaintiff and were occasioned in contumelious disregard for the Plaintiff's rights and feelings in consequence of which the Plaintiff is entitled to aggravated and/or exemplary damages against the Defendant in an amount of \$200,000.00. estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;~~
- b. ~~the Plaintiff has suffered past economic loss in the form of that income which, were it not for her injuries, she would have earned in her work or in a like employment capacity or capacities, compensable in damages, in the sum of \$250,000.00. (estimated on a global basis);~~
- c. ~~the Plaintiff will suffer impairment of her earning capacity in the future, compensable in damages, in the sum of \$500,000.00. (estimated on a global basis);~~
- d. ~~the Plaintiff has incurred a need for gratuitous care, assistance and services from others in the form of assistance with household and domestic tasks and transport, and her fear of being alone in her own home compensable in damages, in the sum of \$500,000.00. (estimated on a global basis);~~

- e. ~~the Plaintiff will incur expenses in the future in undergoing medical and other similar treatment and associated travelling expenses, and will incur expense in the future in purchases of medications and pharmaceutical needs, compensable in damages, in the sum of \$50,000.00; (estimated on a global basis);~~
- f. ~~the Plaintiff will incur a need for gratuitous care, assistance and services from others in the future, compensable in damages, in the sum of \$100,000.00. (estimated on a global basis);~~
- g. ~~the Plaintiff has incurred special damages by way of medical expenses paid on her behalf by and refundable to the Health Insurance Commission, which expenses are compensable in damages in an amount yet to be ascertained;~~
- h. ~~the Plaintiff has incurred special damages and out-of-pocket expenses comprising medical and like expenses, purchases of medications and other pharmaceutical needs and associated travelling expenses, which expenses are compensable in damages and which are estimated at \$20,000.00. (estimated on a global basis);~~
- i. ~~the Plaintiff's business "Waterford Boarding Kennel and Cattery" has lost its good will value estimated at \$470,000.00. (estimated from discussions with a Real Estate Agent)~~
- j. ~~the Plaintiff's NEIGER poodles have lost their goodwill value estimated at \$2,000,000. (estimated based on the nature and value of orders and overseas sales of her dogs)~~
- k. ~~the Plaintiff's property is a kennel property and has been devalued by the actions of the Second Defendant. This loss of value is estimated at \$470,000.00. (conservatively estimated by the nature of the Kennel Industry and the reluctance of potential kennel purchases to purchase a kennel property with such a history);~~
- l. ~~the Plaintiff has suffered from her breached right to privacy by the First and Second Defendant estimated at \$300,000.00; estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;~~
- m. ~~the said actions and behaviour by the Defendants were activated by ill will against the Plaintiff. The Plaintiff is entitled to aggravated and/or exemplary damages against the Defendants for breached right to privacy in an amount of \$100,000.00; estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;~~
- n. ~~the Plaintiff suffered from trespass by the First Defendant estimated at \$100,000.00; estimated by reference to a comparable award for similar injuries~~

~~and consequences and adjusted for the harshness of the Second Defendant's conduct;~~

- ~~o. the Second Defendant intentionally caused infliction of harm to the Plaintiff estimated at \$200,000.00; estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;~~
- ~~p. the Second Defendant intentionally caused the Plaintiff nuisance estimated at \$150,000.00; estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;~~
- ~~q. that the Second Defendant disregarded the Plaintiff's rights entitles the Plaintiff to vindicatory damages and aggravated damages estimated at \$100,000.00; estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;~~
- ~~r. the Second Defendant on the 22nd February 2008 stole property from the Plaintiff valued at \$80,000.00; estimated by the plaintiff from the purchase price of these items, their intrinsic value to her, their antique value and inflation over the years she has owned these items.~~
- ~~s. the Second Defendant caused the Plaintiff to be stalked by the public and this stalking caused the Plaintiff to live in fear and terror. Estimated damages \$200,000.00; estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;~~
- ~~t. that the Second Defendant disregarded the Plaintiff's rights and should have known the campaign against her would cause her to be stalked by the Public entitles the Plaintiff to vindicatory damages and aggravated damages estimated at \$150,000.00 estimated by reference to a comparable award for similar injuries and consequences and adjusted for the harshness of the Second Defendant's conduct;~~

TOTAL LOSS AND DAMAGE _____ \$5,770,000.00

The plaintiff claims the following relief:

~~Damages for personal injuries and other loss and damage suffered by the Plaintiff due to the negligence of and/or nuisance by and/or intention to cause loss and injury by the Defendants. The damages sought include compensatory, aggravated and exemplary together with interest thereon according to law and pursuant to the provisions of Section 47 of the Supreme Court Act 1995 from the 10th January 2008 to the date of judgment or earlier payment herein and costs.~~

The plaintiff elects trial by judge

Signed: _____

Description: ~~Geraldine Fook Fong Robertson~~

~~NOTICE AS TO DEFENCE~~

~~Your defence must be attached to your notice of intention to defend.~~