

AUSTRALIA / JUDGMENT

Houston v Shiels (No 2)

[2026] NSWSC 1178**COURT**

Supreme Court

DECIDED

28 September 2026

BEFORE

Sirtes J

CASE / FILE NUMBER

2024/00200479

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Supreme Court

New South Wales

Medium Neutral Citation: Houston v Shiels (No 2) [2026] NSWSC 1178**Hearing dates:** 18 August 2026**Date of orders:** 28 September 2026**Decision date:** 28 September 2026**Jurisdiction:** Common Law**Before:** Sirtes J

Decision: (1) The Second Plaintiff's claim against the Defendants is dismissed pursuant to r 13.4(1) of the Uniform Civil Procedure Rules 2005 (NSW).
(2) The Second Plaintiff is to pay the Defendants' costs.
(3) The Registry is to provide a copy of these reasons for judgment to the Second Plaintiff.

Catchwords: CIVIL PROCEDURE – summary disposal – dismissal of proceedings – no reasonable cause of action disclosed – no question of principle

Legislation Cited: Uniform Civil Procedure Rules 2005 (NSW), r 13.4

Cases Cited: Agar v Hyde (2000) 201 CLR 552; [2000] HCA 41
Houston v Shiels [2026] NSWSC 93
R v Karlsson [2026] NSWDC 75
Spencer v Commonwealth (2010) 241 CLR 118; [2010] HCA 28

Category: Procedural rulings

Parties: Joanne Houston (First Plaintiff)
Trevor Karlsson (Second Plaintiff)
Barry John Shiels (First Defendant)
Kelly Shiels (Second Defendant)
Benjamin Kirby (Third Defendant)

Representation:

Counsel: KL Watson (Solicitor) (First and Second Defendants)
NM Nasser (Solicitor) (Third Defendant)

Solicitors: Watson Law (First and Second Defendants)
Nuray Associates (Third Defendant)
First Plaintiff (self-represented)
Second Plaintiff (self-represented)

File Number(s): 2024/00200479

JUDGMENT

The Plaintiffs commenced these proceedings on 20 May 2024. They were self-represented at the time (as they are now). The First Plaintiff, Joanne Houston, sought damages (what the pleading described as “reparations”) in the sum of \$4,839,182. The Second Plaintiff, Trevor Karlsson, sought damages in the amount of \$1.

I gratefully adopt Dhanji J’s summary of the Plaintiffs’ claim in *Houston v Shiels* [2026] NSWSC 93 at [9]:

“9. By the plaintiffs’ Amended Statement of Claim (ASOC) the first plaintiff seeks damages with respect to damage to her property in the south coast area of the State, across multiple incidents. According to the ASOC:

- (1) on 1 December 2021 at around 11 pm, the garage and carport on the first plaintiff’s property, together with a motor vehicle belonging to her, were damaged by fire;
- (2) on 2 December 2021, in a separate fire at 2:15 am, a diesel motorhome belonging to the first plaintiff was also damaged by fire;
- (3) at ‘[a]bout Midnight’ on 4 December 2021, a caravan on the first plaintiff’s property was damaged by fire;
- (4) at some time between 18 July 2022 and 27 July 2022, the first plaintiff’s residence was broken into and damage was occasioned to the first plaintiff’s property, including by dousing various parts of the property with fuel, (the inference the plaintiffs seek to draw being that this was done with the intention to set fire to the property); and
- (5) ‘multiple fires’ on 10 October 2024 at the property of the first plaintiff which destroyed the garage, the residence and the studio together with the contents.”

The basis on which Mr Karlsson claims \$1 in damages is not clear.

On 17 July 2022, Mr Karlsson was charged with three offences allegedly committed against the Second Defendant in these proceedings, Kelly Shiels:

intentionally destroying by fire her motor vehicle:

intentionally destroying by fire her dwelling house with the intention of endangering her life;
and

assault occasioning actual bodily harm.

Mr Karlsson pleaded not guilty to those offences. He was tried in the District Court by Sutherland SC DCJ sitting without a jury. On 27 March 2026, his Honour returned verdicts of guilty for each charge: *R v Karlsson* [2026] NSWDC 75. Mr Karlsson is presently serving a sentence of imprisonment for those offences.

Ms Houston appointed a firm of solicitors to act for her in these proceedings on 16 April 2026. On 19 May 2026, those solicitors filed a Notice of Discontinuance (the Notice) which had been executed by Ms Houston and, purportedly, Mr Karlsson. Those solicitors ceased acting for Ms Houston on 30 June 2026.

The Notice provided that the Plaintiffs discontinued the whole of the proceedings. The terms of that discontinuance provided that the First and Second Plaintiffs were to pay the Defendants' costs as agreed or assessed. The then solicitor for the Defendants executed the Notice to indicate the Defendants' consent.

The matter next came before the Court for directions on 30 June 2026. On that date, Registrar Hedge made a notation that the Notice had been filed but that the Plaintiffs would seek the Court's leave to withdraw it. The matter was then referred to me.

I convened a directions hearing on 18 August 2026. The Defendants' legal representatives appeared in person. Ms Houston appeared by audiovisual link. Mr Karlsson also appeared by audiovisual link from prison. He had difficulty hearing the Court, but Ms Houston indicated that she would inform him of what took place.

At that hearing, Ms Houston indicated that she no longer sought to withdraw the Notice. She said that she would "like to withdraw from the whole case". I accordingly made orders which gave effect to the Notice on the part of Ms Houston.

In order to give Mr Karlsson an opportunity to be heard, I made an order that he provide the Court with written submissions as to why the Notice is not a final disposition of these proceedings in accordance with its terms, and why otherwise his pleading ought not be struck out. A one-page handwritten document was received from Mr Karlsson by the Court on 8 September 2026. It stated as follows:

"I have not received a official copy of orders.

I am temporarily incarcerated hence I am unable to make a proper submission including copies to other parties.

Response to orders

- i) Any Notice of Discontinuance has been filed without my personal signature, knowledge or approval.
- ii) I have not instructed any solicitors nor approved any filings.
- iii) The Statement of Claim should not be struck out as the Notice of Discontinuance has been falsely filed.”

It is true that Mr Karlsson has never appointed a solicitor to act for him in these proceedings. There is no evidence about how Mr Karlsson purportedly signed the Notice while he was incarcerated. His signature appears different from the one subscribed to his pleading. I am prepared to accept for the sake of argument, without deciding, that Mr Karlsson did not execute the Notice or approve its filing.

The real difficulty is that Mr Karlsson’s claim does not disclose a cause of action. The entirety of the Amended Statement of Claim concerns Ms Houston’s property and losses she is said to have suffered. There is no pleaded head of damage in respect of Mr Karlsson. There is no articulated basis upon which he claims \$1 in damages against any of the Defendants.

Rule 13.4 of the Uniform Civil Procedure Rules 2005 (NSW) provides as follows:

13.4 Frivolous and vexatious proceedings

- (1) If in any proceedings it appears to the court that in relation to the proceedings generally or in relation to any claim for relief in the proceedings—
 - (a) the proceedings are frivolous or vexatious, or
 - (b) no reasonable cause of action is disclosed, or
 - (c) the proceedings are an abuse of the process of the court,

the court may order that the proceedings be dismissed generally or in relation to that claim.

- (2) The court may receive evidence on the hearing of an application for an order under subrule (1).

This power must be exercised with great care and caution: *Spencer v Commonwealth* (2010) 241 CLR 118; [2010] HCA 28 at [24] (French CJ and Gummow J). A party is ordinarily permitted to place their case before the Court in the usual way, such that the power to dismiss proceedings summarily should not be exercised except in the clearest of cases: *Agar v Hyde* (2000) 201 CLR 552; [2000] HCA 41 at [57].

For the reasons given, I am satisfied that this is such a case. Accepting Mr Karlsson's claim at its highest, it discloses no reasonable cause of action against any of the Defendants. It is doomed to fail. Accordingly, it must be dismissed.

Orders

The Court makes the following orders:

The Second Plaintiff's claim against the Defendants is dismissed pursuant to r 13.4(1) of the Uniform Civil Procedure Rules 2005 (NSW).

The Second Plaintiff is to pay the Defendants' costs.

The Registry is to provide a copy of these reasons for judgment to the Second Plaintiff.

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Decision last updated:

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Prepared on 27 October 2026 · Esheria