

AUSTRALIA / JUDGMENT

Taylor v Saloniklis [2013] FCA 679

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FEDERAL COURT OF AUSTRALIA

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Taylor v Saloniklis [2013] FCA 679

Citation: Taylor v Saloniklis [2013] FCA 679

Parties: LYNETTE SU-YIN TAYLOR & ORS v SUZANNA SALONIKLIS & ORS

File number: SAD 336 of 2012

Judge: BESANKO J

Date of judgment: 10 July 2013

Legislation: Disability Discrimination Act 1992 (Cth)

Federal Court Rules 2011 (Cth) rr 20.11, 20.12, 20.13, 20.14, 20.15

Fair Trading Act 1987 (SA)

Federal Court of Australia Act 1976 (Cth)

Trade Practices Act 1974 (Cth)

Sex Discrimination Act 1984 (Cth)

Date of last submissions: 27 June 2013

Place: Adelaide

Division: GENERAL DIVISION

Category: No Catchwords

Number of paragraphs: 11

Counsel for the Applicants: Mr I M Neil SC and Mr P Moorhouse

Solicitor for the Applicants: Petrine Costigan Lawyers

Counsel for the Respondents: Dr C Bleby SC

Solicitor for the Respondents: EMA Legal

IN THE FEDERAL COURT OF AUSTRALIA

SOUTH AUSTRALIA DISTRICT REGISTRY

GENERAL DIVISION SAD 336 of 2012

BETWEEN: LYNETTE SU-YIN TAYLOR & ORS

First Applicant

AND: SUZANNA SALONIKLIS & ORS

First Respondent

JUDGE: BESANKO J

DATE OF ORDER: 10 JULY 2013

WHERE MADE: ADELAIDE

**THE COURT ORDERS
THAT:**

1. The parties make standard discovery to one another within 35 days.
2. The applicants pay the respondents' costs of the respondents' interlocutory application dated 20 June 2013.
3. The directions hearing be adjourned to 28 August 2013 at 9.00 am (Adelaide time).

Note: Entry of orders is dealt with in Rule 39.32 of the Federal Court Rules 2011 (Cth).

IN THE FEDERAL COURT OF AUSTRALIA
SOUTH AUSTRALIA DISTRICT REGISTRY
GENERAL DIVISION SAD 336 of 2012
BETWEEN: LYNETTE SU-YIN TAYLOR & ORS
First Applicant
AND: SUZANNA SALONIKLIS & ORS
First Respondent
JUDGE: BESANKO J
DATE: 10 JULY 2013
PLACE: ADELAIDE

REASONS FOR JUDGMENT

1 This is an application by the respondents in a proceeding for an order that the applicants give standard discovery under rr 20.13 and 20.14 of the Federal Court Rules 2011 (Cth). The application is opposed by the applicants. I made an order that the respondents' application be determined on written submissions.

2 The pleadings have closed. No orders have as yet been made for the filing of written evidence by the applicants and by the respondents.

3 The applicants in this proceeding make claims under the Trade Practices Act 1974 (Cth), Fair Trading Act 1987 (SA), Sex Discrimination Act 1984 (Cth) and the Disability Discrimination Act 1992 (Cth) and for breaches of a partnership agreement and negligence. The period of time over which the claims are said to have arisen is substantial being from 1 July 2007 to March 2012.

4 The applicants' Second Amended Statement of Claim is a lengthy document of 140 pages and 245 paragraphs. It is quite particular in a number of respects and it pleads a large number of documents. In a handful of paragraphs it pleads that particulars will be provided after discovery.

5 The respondents' Defence to Second Amended Statement of Claim is also a lengthy and detailed document.

6 Finally, there is a Reply of 18 pages and 136 paragraphs.

7 Under the Federal Court Rules 2011 (Cth) discovery is not automatic or even ordered as a matter of course and even if the Court is persuaded to make an order, the Court will fashion the order to suit the particular circumstances of the case (rr 20.11, 20.12, 20.13, 20.14, 20.15 and Practice Note CM 5 Discovery). I also need to bear in mind the provisions of Part VB (Case Management in Civil Proceedings) of the Federal Court of Australia Act 1976 (Cth).

8 I think that there should be an order for discovery in this case. It is apparent that both parties rely heavily on documents and there does not seem to be any dispute that some form of discovery should be ordered. The questions are what discovery and when?

9 Taking the question of timing first, I think that discovery should be ordered now. I reject the applicants' submission that there is an advantage in waiting until the written evidence has been filed. I think the pleadings are detailed and the issues fairly clear. I see no appreciable benefit in waiting for the filing of written evidence and there is the risk of further or supplementary written evidence having to be filed after discovery.

10 The form which discovery should take is to my mind the difficult issue. As I worked my way through the applicants' Second Amended Statement of Claim it became apparent to me that standard discovery should be able to be given without too much difficulty. I do not think that discovery by categories is a better alternative because in the circumstances of this case it might well amount to something very similar to standard discovery with the added possibility of arguments about the appropriate categories.

11 I will make the order for standard discovery.

I certify that the preceding eleven (11) numbered paragraphs are a true copy of the Reasons for Judgment herein of the Honourable Justice Besanko.

Associate:

Dated: 10 July 2013

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Prepared on 28 October 2026 · Esheria