



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

This document was filed electronically in the High Court of Australia on 17 Jun 2021 and has been accepted for filing under the *High Court Rules 2004*. Details of filing and important additional information are provided below.

Details of Filing

File Number: P6/2021
File Title: Charisteas v. Charisteas & Ors
Registry: Perth
Document filed: Form 27D - 4th Respondent's submissions
Filing party: Respondents
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Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties and whenever the document is reproduced for use by the Court.

IN THE HIGH COURT OF AUSTRALIA
PERTH REGISTRY
ON APPEAL FROM THE FULL COURT OF THE
FAMILY COURT OF AUSTRALIA

P6/2021

BETWEEN:

G CHARISTEAS
Appellant

and

Z V CHARISTEAS
First RespondentYWB Pty Ltd
Second RespondentL W BANDY
Third RespondentA CHARISTEAS
(by her Case Guardian R Elias)
Fourth RespondentE A CHARISTEAS
Fifth RespondentK A CHARISTEAS
Sixth RespondentS M MANOLAS
Seventh RespondentL W BANDY & A CHARISTEAS
(as Executors of the Estate of D Charisteas)
Eighth Respondent

FOURTH RESPONDENT'S SUBMISSIONS

Foreword

1. The Fourth Respondent makes these Submissions to inform the Honourable High Court of the particular Order sought by the Appellant in his Notice of Appeal that she would like this Court to make if his appeal is successful. The Fourth Respondent does not wish to make any submissions on the merits of the Appellant's appeal. For this reason, the Fourth Respondent asks that these Submissions be accepted at the

hearing of the appeal without the need for her to appear either in person or by counsel.

The Fourth Respondent

2. The Fourth Respondent is an infirm lady aged 89. She was born on 18 September 1931. For the past 3 years she has been a permanent resident at Aegis St. Michael's Aged Care, North Perth. She now appears in these proceedings by her daughter, her Case Guardian.

Orders sought by the Appellant and supported by the Fourth Respondent

3. The Orders sought by the Appellant in his Notice of Appeal are, with respect, just a little difficult to understand other than that the appeal be allowed and that the Orders of the primary judge, Justice Walters, be set aside. The Fourth Respondent neither supports nor opposes those Orders Sought to that extent. If, however, the appeal is successful and the consequential order sought in paragraph 2(b) of the Appellant's "Orders Sought" is that the previous Orders made by Justice Crisford on 9 December 2011 (in proceedings *sub nom.* *VC v GC* [2011] FCWA 89), be reinstated, the Fourth Respondent supports this Order. The Fourth Respondent then simply notes only that Justice Crisford's Orders were subsequently varied by the Full Court of the Family Court on 11 April 2013 (in appeal proceedings *sub nom.* *AC v. VC* ([2013] FamCAFC 60). There was no appeal against those Orders made to the Full Court of the Family Court.

4. It follows from the foregoing that the Fourth Respondent opposes a rehearing of the First Respondent's property settlement proceedings under section 79 of the *Family Law Act 1975* (Cth.), as alternatively sought by the Appellant in paragraph 3(b) of his "Orders Sought".
5. In sum, the Fourth Respondent seeks Orders that will, so far as possible, lead to a speedy conclusion of the present proceedings in which she has necessarily been involved. The present proceedings began 15 years ago, in 2006. Since then there have been no fewer than 15 judgments delivered in the proceedings, of which some 7 have emanated from appeals to the Full Court of the Family Court. As the primary judge, Justice Walters, has observed, the extended litigation has involved "ruinous expense" by the parties, totalling some \$3.69 million (see [546] and [525(c), (i)] of his Reasons for Judgment).

Fourth Respondent's involvement in the proceedings

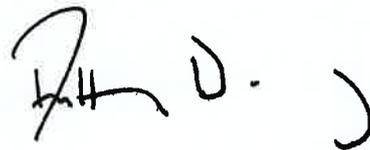
6. The Fourth Respondent is necessarily involved in the present proceedings for 2 reasons. The first is on account of her position in *YWB Pty. Ltd.* (the Second Respondent), as trustee for the YWB Trust. The YWB Trust is a discretionary (family) trust that was established in 1985 by the Fourth Respondent and her deceased husband. The Fourth Respondent is now the sole shareholder of *YWB Pty. Ltd.* She and the Third Respondent, Mr L.W. Bandy, are the directors of this company. The Fourth Respondent, together with the Appellant, the First Respondent and the Fifth to Seventh Respondents, are beneficiaries of the YWB Trust. Since 1997, there has been no Appointor or Guardian of the Trust.

7. The second reason for the Fourth Respondent's involvement in the present proceedings is her interest in 2 loan accounts with the YWB Trust. These total some \$3,165 million which resulted from distributions made to her by the Trust through the involvement of the Appellant. The primary judge, Justice Walters, found the total quantum involved to be unjustifiably large (see [578] of his Reasons for Judgment).

Injunction against the Fourth Respondent

8. By paragraph 5 of Orders made on 13 September 2016, the Trust and the Fourth Respondent are enjoined until further order from dealing with trust property except in the normal course of business. This injunction specifically prohibits the Trust, in paragraph 5(c) of the Orders, from repaying any loan account, with includes the Fourth Respondent's loan accounts. By paragraph 6(g) of those Orders, however, the Trust may pay, and does pay the Fourth Respondent (available cash permitting), a monthly allowance of \$3,000. This sum is deducted from her loan account balance.

Dated: 14 June 2021



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