

JOAN RUTH MAY v WONDERMART LIMITED

OBSERVATIONS for DEFENDANT'S COUNSEL

1. Counsel will find briefed:
 - i. Notice of Motion filed by defendant (applicant)
 - ii. Affidavit of Kim Richards
 - iii. Affidavit of Marion Rose
 - iv. Statement of Claim
 - v. Defence
 - vii. Statement of Particulars

2. Counsel is briefed to appear for the applicant/defendant in the District Court on Tuesday 8 May 2012 at 4.30pm on the hearing of this application to summarily dismiss this action for want of prosecution pursuant to Rule 12.7 of the UCPR.

3. The motion was listed for hearing on 3 May 2012, but was stood over by consent to the current listing.

4. The evidence in support of this application and the plaintiff's answer to that evidence is contained in the affidavits, copies of which are briefed.

5. The writer has not been given notice to attend Sydney to be cross examined on his affidavit and, subject to counsel's attitude, in order to minimise costs, does not intend to travel to Sydney to instruct counsel at the hearing of the application.

With compliments

(sgd) K Richards

WONDERMART LIMITED

**BRIEF TO APPEAR FOR THE
APPLICANT/DEFENDANT**

Patient and Waiting
Solicitors
99 Brisbane Street
BATHURST NSW 2794
DX 4602 BATHURST
Phone: 02 6342 2199

Ref: Mr Kim Richards

JOAN RUTH MAY v WONDERMART LIMITED

OBSERVATIONS for PLAINTIFF'S COUNSEL

1. Counsel will find briefed:
 - i. Notice of Motion filed by defendant (applicant)
 - ii. Affidavit of Kim Richards
 - iii. Affidavit of Marion Rose
 - iv. Ordinary Statement of Claim
 - v. Defence
 - vii. Statement of Particulars

2. Counsel is briefed to appear for the respondent/plaintiff on the hearing of this application in the District Court, John Maddison Tower, Goulburn Street, Sydney on 8 May 2012 at 4.30pm.

3. The applicant/defendant's application is to have the proceedings dismissed for want of prosecution pursuant to Rule 12.7 of the UCPR.

4. The evidence in support of the application is set forth in the affidavit of the defendant's solicitor, Kim Richards.

5. For my part, I have sworn an affidavit, a copy of which is included in Counsel's brief.

6. Counsel is briefed to resist the application.

7. The writer has not been given notice to attend Sydney to be cross examined on his affidavit and, in order to keep costs to a minimum, but subject to counsel's attitude, does not intend to travel to Sydney to instruct counsel at the hearing of the application. Please also note that Dr Berensen (whose report is attached to my affidavit) will not be able to give evidence so we rely purely on his written report.

8. The motion was filed approximately 3 weeks ago and was listed for hearing on 3 May 2012, but by consent of all parties was adjourned to the current date.

With compliments

Godot & Son

(sgd) M Rose

**JOAN RUTH MAY v WONDERMART
LIMITED**

**BRIEF TO APPEAR FOR THE
RESPONDENT/PLAINTIFF**

Godot & Son
Solicitors
14 Sale Street
ORANGE NSW 2800
DX 3038 ORANGE

Att: Ms M Rose

NOTICE OF MOTION

COURT DETAILS

Court	District
List	General
Registry	Sydney
Case number	5478 of 2012

TITLE OF PROCEEDINGS

Plaintiff	Joan Ruth May
Defendant	Wondermart Pty Limited

FILING DETAILS

Person seeking orders	Wondermart Pty Limited Defendant
Legal representative	Kim Richards, Patient and Waiting, Solicitors
Legal representative reference	666:09
Contact name and telephone	Kim Richards, 02 6342 2199

PERSON AFFECTED BY ORDERS SOUGHT

Joan Ruth May	Plaintiff
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HEARING DETAILS

This motion is listed at 9.30am on 3 May 2012 at John Maddison Tower, 86 Goulburn Street, Sydney.

ORDERS SOUGHT

- 1 That these proceedings be dismissed for want of due despatch pursuant to Rule 12.7 of the UCPR.
- 2 The plaintiff to pay the defendant's costs of the proceedings.
- 3 Such further or other order as this Honourable Court deems appropriate.

SIGNATURE

Signature of legal representative *Kim Richards*
Capacity Solicitor for the Defendant
Date of signature 24 April 2012

NOTICE TO PERSON AFFECTED BY ORDERS SOUGHT

If you do not attend, the court may hear the motion and make orders, including orders for costs, in your absence.

REGISTRY ADDRESS

Street address District Court, John Maddison Tower,
86 Goulburn Street, Sydney.
Postal address District Court Civil Registry
PO Box K1026
HAYMARKET NSW 2000
Telephone (02) 9377 5840

AFFIDAVIT OF KIM RICHARDS – 24 APRIL 2012

COURT DETAILS

Court	District Court
List	General
Registry	Sydney
Case number	5478 of 2012

TITLE OF PROCEEDINGS

Plaintiff	Joan Ruth May
Defendant	Wondermart Pty Limited

FILING DETAILS

Filed for	Wondermart Pty Limited Defendant
Legal representative	Kim Richards, Patient and Waiting
Legal representative reference	666:09
Contact name and telephone	Kim Richards, 02 6342 2199

AFFIDAVIT

Name Kim Richards
Address 99 Brisbane St, Bathurst
Occupation Solicitor
Date 24 April 2012

I say on oath:

1. I am the defendant's solicitor.
2. I believe that the information contained in this affidavit is true.
3. The Statement of Claim in these proceedings was filed on 5 October 2009.
4. These proceedings were listed for an Arbitration Hearing on 28 November 2009 before Mr R F Auldman. I crave leave to refer to the Arbitrator's Note which was created on that day which was placed onto the Court file, a copy of which is annexed hereto and marked with the letter "A".
5. The matter was fixed for directions on 30 January 2010 and the referral to arbitration was rescinded. It was placed in the Not Ready List at the plaintiff's request. I understood that the plaintiff was undergoing further medical treatment
6. The matter was called over on 2 March 2010 on which day the plaintiff's solicitor informed the court that the plaintiff needed to undergo further treatment to her eye and as the outcome of that treatment would take some time to be known the matter remained in the Not Ready List.
7. The matter was called over on 4 August 2010 and the plaintiff's solicitor informed the Court that they were having difficulties locating the plaintiff and obtaining her instructions. The matter remained in the Not Ready List.
8. Since the date of the Arbitration Hearing, the defendant has received no correspondence and has had no contact from the plaintiff or her solicitors other than when the matter has been called over.
9. On 2 September 2011 I caused a letter to be sent to the plaintiff's solicitors, a copy of which is annexed hereto and marked with the letter "B".

10. I subsequently received a letter from the plaintiff's solicitors dated 16 February 2012, a copy of which is annexed hereto and marked with the letter "C".
11. On 6 March 2012 I telephoned the plaintiff's solicitors and spoke to Ms Rose who acts for the Plaintiff. I asked her if she had further information on the progress of the matter. She said "We are pursuing our enquiries and will keep you advised". I have not heard anything further.
12. I caused a letter to be sent to the plaintiff's solicitors dated 28 March 2012, a copy of which is annexed hereto and marked "D".
13. I subsequently received a letter from the plaintiff's solicitors dated 30 March 2012, a copy of which is annexed hereto and marked with the letter "E".
14. I respectfully submit that the plaintiff has unreasonably failed to take any steps to have these proceedings restored to the List for hearing, failed to prosecute these proceedings with due despatch and that in the circumstances it is just and proper that these proceedings be dismissed.
15. I respectfully request this Honourable Court grant the orders as sought.

SWORN at	Bathurst
Signature of deponent	<i>Kim Richards</i>
Signature of witness	<i>L Secretary</i>
Name of witness	Lyn Secretary
Address of witness	34 Orange Rd, Bathurst
Capacity of witness	Justice of the Peace 3456

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

“A”

JOAN RUTH MAY v WONDERMART LIMITED
MATTER NO. 5478 OF 2009

ARBITRATOR'S NOTE

This matter was called on and listed before me as an arbitration matter on 28 November 2009. Mr Bushy of Counsel appeared on behalf of the Defendant and Ms Younger of Counsel appeared for the Plaintiff.

The Plaintiff was injured in March 2009 in a slip and fall accident in Wondermart in the Sydney CBD. She was approximately thirty-two years of age at the time of the accident.

Subpoena documents sought by the plaintiff were not available at the time of the arbitration. There was a question as to whether they had been subpoenaed at all, and whether the subpoenaed parties had been served. The Plaintiff however was not in a position to either prove the existence of the subpoenas, or that they had been served.

Mr Bushy asserted that the arbitration should proceed anyway. Ms Younger submitted in light of the absence of answers to the subpoenas (one of which was alleged to have been addressed to the cleaning company alleged to have been contracted to clean the premises in question) and in light of the fact that the credit of the defendant's assertions of having a safe system in place will be in doubt, the matter is not suitable for arbitration and in any case not ready. I vacated the arbitration date.

Dated: 30 November 2009

.....
R F Auldiman - Arbitrator

THIS IS THE ANNEXURE MARKED "A"
REFERRED TO IN THE AFFIDAVIT OF
KIM RICHARDS SWORN
AT BATHURST ON THIS 24TH DAY OF
APRIL 2012 BEFORE ME

“B”

PATIENT AND WAITING
Solicitors and Attorneys

99 Brisbane Street, Bathurst NSW
DX 4602 BATHURST

Our Ref: KBR:LA:C.17728

Your Ref: PNW:SE:DC 85/5829

2 September 2011

Messrs Godot & Son
Solicitors
DX 3038 ORANGE

Dear Sirs,

Re: Joan Ruth May v Wondermart Limited

We note that the arbitration hearing of these proceedings was vacated on 28 November 2009 and that the proceedings have been in the Inactive list since that time. In the circumstances, could you please indicate to us, within the next 21 days, if your client intends to proceed with her claim? Please precisely advise us of the status of the proceedings and exactly what issues are preventing you from taking a hearing date. If we do not hear from you, we shall move the Court for orders that the proceedings be summarily dismissed.

Yours faithfully,

PATIENT AND WAITING

Kim Richards

THIS IS THE ANNEXURE MARKED “B”
REFERRED TO IN THE AFFIDAVIT OF
KIM RICHARDS SWORN
AT BATHURST ON THIS 24TH DAY OF
APRIL 2012 BEFORE ME

“C”

GODOT & SON

Please reply to our Orange office

OUR REF: SMJ:CM:85/5829
YOUR REF: KBR:LA:C: 17728

16 February 2012

Messrs Patient and Waiting
Attention: Kim Richards
Solicitors
DX 4602 COWRA

Dear Sir,

RE: JOAN RUTH MAY V WONDERMART LIMITED

We refer to your letter of 2 April 2011 and wish to indicate that our client does intend to proceed with her claim. We will advise once we have received sufficient instructions to ask the Court to restore the matter to the active list.

We note that Ms Rose now has conduct of the file on behalf of the plaintiff.

Yours faithfully,
GODOT & SON

Per:

Marion Rose
Solicitor

THIS IS THE ANNEXURE MARKED “C”
REFERRED TO IN THE AFFIDAVIT OF
KIM RICHARDS SWORN
AT BATHURST ON THIS 24TH DAY OF
APRIL 2012 BEFORE ME

“D”

PATIENT AND WAITING
Solicitors and Attorneys

99 Brisbane Street, Bathurst NSW
DX 4602 BATHURST

Our Ref: KBR:LA:C.17728
Your Ref: PNW:SE:DC 85/5829

28 March 2012

Messrs Godot & Son
Solicitors
DX 3038 ORANGE

Dear Sirs,

Re: Joan Ruth May v Wondermart Limited

We refer to the writer's conversation with your Ms Rose on 6 July last. We enclose a copy of a draft Motion and Affidavit in Support which we are proposing to file. We confirm that we are prepared to wait until 1 September 2010 prior to filing these documents.

Yours faithfully,
PATIENT AND WAITING

Kim Richards

THIS IS THE ANNEXURE MARKED "D"
REFERRED TO IN THE AFFIDAVIT OF
KIM RICHARDS SWORN
AT BATHURST ON THIS 24TH DAY OF
APRIL 2012 BEFORE ME

“E”

GODOT & SON

Please reply to our Orange office

OUR REF: SMJ:CM:85/5829
YOUR REF: KBR:LA:C: 17728

30 March 2012

Messrs Patient and Waiting
Attention: Kim Richards
Solicitors
DX 4602 COWRA

Dear Sir,

RE: JOAN RUTH MAY V WONDERMART LIMITED

We refer to your letter of today's date and to our telephone conversation of 6 July 2011.

We are presently engaged in enquiries in relation to your client's assertion as to the safe system of cleaning, and in particular in relation to the alleged cleaning contractor.

It now appears that the alleged contracting company has gone into administration. We are pursuing enquiries in relation to the identity of the administrator.

We expect to have some firm news on this issue within the next ten (10) days. We will keep you informed as to the progress of this matter.

Yours faithfully,
GODOT & SON

Per:

Marion Rose
Solicitor

THIS IS THE ANNEXURE MARKED "E"
REFERRED TO IN THE AFFIDAVIT OF
KIM RICHARDS SWORN
AT BATHURST ON THIS 24TH DAY OF
APRIL 2012 BEFORE ME

AFFIDAVIT OF MARION ROSE – 28 APRIL 2012

COURT DETAILS

Court	District Court
List	General
Registry	Sydney
Case number	5478 of 2009

TITLE OF PROCEEDINGS

Plaintiff	Joan Ruth May
Defendant	Wondermart Pty Limited

FILING DETAILS

Filed for	Joan Ruth May Plaintiff
Legal representative	Marion Rose, Godot & Son
Legal representative reference	MR:456700
Contact name and telephone	Marion Rose, 02 8866 7890

AFFIDAVIT

Name	Marion Rose
Address	14 Sale St, Orange, NSW
Occupation	Solicitor
Date	28 April 2012

I say on oath:

1. I am a solicitor employed by Godot & Son and I have the carriage and conduct of this matter on behalf of the plaintiff. I commenced employment at the firm and assumed conduct of the file in September 2011 after the sudden departure of a former employee of the firm. I took over about 250 files, all of which were in a very untidy state.
2. I crave leave to refer to the Chronology of Events annexed hereto and marked with the letter "A". The information given in this affidavit and the Chronology is, to the best of my knowledge, true and is based on instructions and on my perusal of this firm's file in these proceedings. The Chronology reveals that since being instructed, some difficulties have been experienced by Godot & Son in maintaining the contact necessary to obtain good instructions and do all that was necessary to bring this matter to a conclusion.
3. The reasons for these difficulties are:-
 - a) the Plaintiff has moved house three times during that period and on each occasion that she has moved, contact between the Plaintiff and Godot & Son has been interrupted for some months; and
 - b) I have been informed and I believe that the Plaintiff experiences problems with her memory which may cause her to overlook her obligations to reply to letters on occasions. Consequently, any delay attributable to this, has been unintentional. I crave leave to refer to the report of Dr H Berensen annexed hereto and marked with the letter "B" wherein Dr Berensen states that the Plaintiff may have problems in the way her brain interprets auditory and visual data.
4. The plaintiff has now settled in the ACT and on 14 April 2012 she travelled from the ACT to Orange for a conference with her solicitors, Godot & Son.
5. The Plaintiff is presently in the process of obtaining referrals to a Specialist Neurologist, a Specialist Ophthalmologist, a Specialist Ear Nose and Throat Surgeon and a Specialist Orthopaedic Surgeon.

6. In consequence of enquiries made by me, I expect to know shortly the identity of the insurer of the cleaning company alleged by the defendant to be its contracted cleaner at the time of the accident. I have had telephone contact with the administrator of the cleaning company and have ascertained that that company is insured.
7. I anticipate that the Plaintiff will be ready to take a hearing date in three months from now, once reports from Doctors are obtained. In that time frame I will seek the leave of the Supreme Court to commence proceedings against the cleaning company in administration and will file a motion seeking to extend the limitation period to join the cleaner.
8. The Plaintiff would suffer great prejudice if this matter were to be struck out in view of the fact that the limitation period in respect of her cause of action against the defendant has expired.
9. It would be unfair to the Plaintiff if this matter were to be struck out in light of the circumstance that no correspondence was received by the Plaintiff's solicitors, Godot & Son from the defendant's solicitors between the date of the Arbitration Hearing on 28 November 2009 and 2 September 2011.

SWORN at	Orange
Signature of deponent	<i>M. Rose</i>
Signature of witness	Marion Rose
Name of witness	S Beckett
Address of witness	45 Samuel Drive, Canterbury
Capacity of witness	Justice of the Peace

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

“A”

CHRONOLOGY OF EVENTS

Jean Ruth May v Wondermart Limited

PLAINTIFF No. 5478 of 2009

14/4/09 Letter received by Godot & Son, Solicitors from client re her recent treatment. Also reveals details of employment history and advising of new address, 11 Talbot Road, Croydon Park, S.A.

20/5/09 Letter from Samantha Beckett of Godot & Son to client re Freedom of Information Request and Doctor's Certificate

30/6/09 Letter from Godot & Son to Richard Hirsute, Barrister

September 09 Conferences with Richard Hirsute, Barrister

5/10/09 Statement of Claim filed

7/10/09 Letter from Mr I M Incompetent of Godot & Son to Sparkling Cleaning Services Pty Limited

30/11/09 Arbitration Hearing

1/12/09 Reply received by Godot & Son from Australian Taxation Office re Freedom of Information Request

2/12/09 Reply received by Godot & Son from Enron & Singletel, Accountants (the managers of Sparkling)

THIS IS THE ANNEXURE MARKED "A"
REFERRED TO IN THE AFFIDAVIT OF
MARION ROSE SWORN ON THIS 28th DAY
OF APRIL 2012 BEFORE ME

- 30/1/10 Directions – placed in Not Ready List
- 13/2/10 Fresh Brief sent to Diana Younger of Counsel requesting advice on Liability, Quantum and Evidence
- Letter from Elizabeth Godot of Godot & Son to client at 11 Talbot Road, Croydon Park seeking instructions and information
- 14/2/10 Letter from Michael Redford of Godot & Son to client at 11 Talbot Road, Croydon Park
- 25/3/10 Letter from Michael Redford of Godot & Son to client at 11 Talbot Road, Croydon Park asking that previous letters be answered urgently. That letter returned to sender
- 27/3/10 Letter from Michael Redford of Godot & Son to Diana Younger of Counsel seeking advice
- 12/5/11 Letter to DDR Information Search from Michael Redford of Godot & Son, seeking address of client
- 13/5/11 Number of phone calls made by office staff of Godot & Son to members of Mrs Mays family. New address found
- 4/6/11 Letter from Michael Redford of Godot & Son to client at 4/12 Second Street, Brompton S.A. seeking instructions.
- 20/7/11 Letter to client at 4/12 Second Street, Brompton, S.A. from Peter Wilson of Godot & Son.
- 26/7/11 Letter to client at 4/12 Second Street, Brompton, S.A. from Michael Redford of Godot & Son re Offer of Settlement.
- 26/7/11 Letter from Diana Younger of Counsel received by Marion Rose of Godot & Son.
- 28/7/11 Letter from Marion Rose of Godot & Son to client at 4/12 Second Street Brompton, S.A.
- 31/7/11 Telephone conversation between Marion Rose of Godot & Son and Barry Muppett, Enron & Singletel, Accountants (the administrators of Sparkling)

- 2/9/11 Number of phone calls made by office staff of Godot & Son to members of Mrs Mays family. New address found
- 2/9/11 Letter from Michael Redford of Godot & Son to client at 38 Cooks St, Turner ACT seeking instructions.
- 14/9/11 Plaintiff travels from the ACT to Orange for a conference with her solicitors.

“B”

DR HENRY A BERENSEN M.B. B.S.

11 September 2011

Godot & Son
Solicitors
DX 3038 ORANGE

Dear Sirs

I interviewed Joan May today in order to provide you with a report. The real problem here is that the injury occurred over 3 years ago and I have not been provide with any reports or scans from the period of the accident to date.

Miss May says that she has been referred to Dr Pitter with respect to her vision, Dr Stone for her hearing and Dr Newcombe for review. She perceives two main problems from the injury;

1. Visual disturbance
2. Learning difficulty

I believe these have been tested and no disorder attributed to the trauma has been found. However, on speaking to her, I feel her problems may be in the way her brain interprets auditory and visual data.

To elucidate this further I have referred her to Ted Petroni, a clinical psychologist, for an assessment of cognitive function.

Miss May functions adequately in her clerical job and suffers no locomotor disability.

I personally am unable to say if her current visual and hearing problems are injury related.

Yours faithfully,

H A Berensen

THIS IS THE ANNEXURE MARKED “B”
REFERRED TO IN THE AFFIDAVIT OF
MARION ROSE SWORN ON THIS 28th DAY
OF APRIL 2012 BEFORE ME

STATEMENT OF CLAIM

COURT DETAILS

Court	District Court
List	General
Registry	Sydney
Case number	5478 of 2009

TITLE OF PROCEEDINGS

Plaintiff	Joan Ruth May
Defendant	Wondermart Pty Limited

FILING DETAILS

Filed for	Joan Ruth May Plaintiff
Legal representative	Godot & Son
Legal representative reference	MR:456700
Contact name and telephone	Godot & Son, 02 8866 7890

TYPE OF CLAIM

Torts - negligence – damages

RELIEF CLAIMED

- 1 Damages
- 2 Interest
- 3 Costs

PLEADINGS AND PARTICULARS

1. The defendant is and was at all material times duly incorporated and able to be sued in its name.
2. The Plaintiff was born on 15 February 1972.
3. On or about 1 March 2009 the Plaintiff was shopping in the defendant's premises at 11 Main Street Cowra when she slipped on some liquid on the floor, suffering injuries.

PARTICULARS OF INJURIES

- (a) General bruising and abrasions;
- (b) Shock;
- (c) Injury to right ear;
- (d) Injury to right eye;
- (e) Injury to right side of head; and
- (f) Possible brain injury.

5. The fall was caused by the negligence of the defendant.

PARTICULARS OF NEGLIGENCE

- (a) Failing to avoid liquids being present on the floor of the premises;
- (b) Failing to clear the liquid;
- (c) Failure to have a safe system by which spills are cleaned; and
- (d) Failure to ensure the safety of the plaintiff.

6. As a result of the injuries suffered the Plaintiff has continued to suffer certain disabilities.

PARTICULARS OF DISABILITIES

- (a) Headaches;
- (b) Earache in the right ear;
- (c) Restriction in hearing in the right ear;
- (d) Partial loss of sight in the right eye;

- (e) Possible interference in the way her brain interprets auditory and visual data;
and
 - (f) Possible restriction of cognitive function.
7. The Plaintiff has incurred out-of-pocket expenses as a result of the injuries and disabilities sustained and claims reimbursement thereof. As the out-of-pocket expenses are likely to vary from time to time, it is inappropriate to specify such expenses with precision at this time. Full, up-to-date particulars of out-of-pocket expenses together with particulars of any claim for future medical, hospital and surgical or other like expenses will be furnished prior to the hearing and interim particulars will also be made available at any pre-trial conference which may take place in connection with this matter.
8. The Plaintiff may require periodic continuing medical treatment in respect of the conservative management of the Plaintiff's injuries and disabilities and claims to be compensated for the expense of such treatment.
9. The Plaintiff may at the hearing seek to be compensated for any loss of or diminution in earning capacity occasioned by virtue of the Plaintiff's injuries and disabilities have occasioned to the Plaintiff's future way of life and enjoyment.
10. The Plaintiff claims damages.
11. The Plaintiff claims interest in accordance with Section 100 of the Civil Procedure Act 2005.

SIGNATURE OF LEGAL REPRESENTATIVE

I certify under section 347 of the Legal Profession Act 2004 that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim for damages in these proceedings has reasonable prospects of success.

I have advised the plaintiff[s] that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.

Signature

Capacity

[eg solicitor on record, contact solicitor]

Date of signature

FORMAL PARTS AND VERIFICATION HAS BEEN OMITTED. ASSUME PROCEDURAL REQUIREMENTS SATISFIED.

DEFENCE

COURT DETAILS

Court	District Court
List	General
Registry	Sydney
Case number	5478 of 2009

TITLE OF PROCEEDINGS

Plaintiff	Joan Ruth May
Defendant	Wondermart Pty Limited

FILING DETAILS

Filed for	Wondermart Pty Limited
Legal representative	Patient & Waiting
Legal representative reference	Ref...
Contact name and telephone	Patient & Waiting ...

PLEADINGS AND PARTICULARS

1. The Defendant does not admit paragraph 1 of the Statement of Claim.
2. The Defendant does not know and cannot admit paragraphs 2 and 3 of the Statement of Claim.
3. The Defendant denies paragraphs 4, 5, 6, 7, 8, 9, 10 and 11 of the Statement of Claim.

SIGNATURE OF LEGAL REPRESENTATIVE

I certify under section 347 of the Legal Profession Act 2004 that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim for damages in these proceedings has reasonable prospects of success.

I have advised the plaintiff[s] that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.

Signature

Capacity

[eg solicitor on record, contact solicitor]

Date of signature

FORMAL PARTS AND VERIFICATION HAS BEEN OMITTED. ASSUME PROCEDURAL REQUIREMENTS SATISFIED.

**STATEMENT OF PARTICULARS
PERSONAL INJURY PROCEEDINGS**

COURT DETAILS

Court	District Court
List	General
Registry	Sydney
Case number	5478 of 2009

TITLE OF PROCEEDINGS

Plaintiff	JOAN RUTH MAY
Defendant	WONDERMART PTY LIMITED

FILING DETAILS/ADDRESS FOR SERVICE

Filed for	Joan Ruth May Plaintiff
Legal representative	Godot & Son
Legal representative reference	MR:456700
Contact name and telephone	Godot & Son, 02 8866 7890

PARTICULARS OF INJURIES

Date of Accident: On or about March 2009.

Age at Time of Accident: 37

1. Injuries

- (a) General bruising and abrasions;
- (b) Shock;
- (c) Injury to right ear;
- (d) Injury to right eye;
- (e) Injury to right side of head; and
- (f) Possible brain injury.

2. Disabilities

- (a) Headaches;
- (b) Earache in the right ear;
- (c) Restriction in hearing in the right ear;
- (d) Partial loss of sight in the right eye;
- (e) Possible interference in the way her brain intercepts auditory and visual data; and

- (f) Possible restriction of cognitive function.

PARTICULARS OF OUT-OF-POCKET EXPENSES

3. Out-of-Pocket Expenses

The plaintiff has incurred out-of-pocket expenses as a result of the injuries sustained in this accident. As the out-of-pocket expenses are likely to vary from time to time, it is inappropriate to specify such expenses with precision at this time. Full up to date particulars of out-of-pocket expenses together with particulars of any claim for future medical, hospital and surgical or other like expenses will be furnished prior to the hearing and interim particulars will also be made available at any pre-trial conference which may take place in connection with this matter.

4. Future Medical Expenses

The plaintiff may require periodic continuing medical treatment with respect to the conservative management of her injuries and disabilities.

5. Loss of Enjoyment of Life and Loss of Amenities

In addition to the special and general damages referred to above the plaintiff will at the hearing claim to be compensated for the interference which the said injuries and disabilities have occasioned to the plaintiff's future way of life and enjoyment of life.

6. Damages

The plaintiff claims damages

7. Interest

The plaintiff claims interest in accordance with Section 100 of the Civil Procedure Act 2005.

A copy of this Statement of Particulars with the documents required to be served by Part 15 Rule 12 have been served on the defendant and on all other parties who have separately pleaded.

FORMAL PARTS OMITTED. ASSUME PROCEDURAL REQUIREMENTS HAVE BEEN SATISFIED.