

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 27/08/2019 3:53:58 PM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged:	Originating Application Starting a Representative Proceeding under Part IVA Federal Court of Australia Act 1976 - Form 19 - Rule 9.32
File Number:	VID816/2019
File Title:	PLAINTIFF M83A/2019 & ANOR v SCOTT MORRISON & ORS
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



Dated: 28/08/2019 9:00:41 AM AEST

Registrar

A handwritten signature in blue ink, reading "Warwick Soden".

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. 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.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Amended Originating Application

(Filed pursuant to the Orders of Justice Mortimer made on 27 August 2019)

No. VID 816 of 2019

Federal Court of Australia
District Registry: Victoria
Division: General

Plaintiff M83A/2019

First Applicant

Plaintiff M83B/2019 by his litigation representative, **Plaintiff M83C/2019**

Second Applicant

Scott Morrison and others name in the Schedule

Respondents

To the Respondents

The Applicants apply for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place: Federal Court of Australia
305 William Street
Melbourne VIC 3000

Date: August 2019

Signed by an officer acting with the
authority of the District Registrar

Filed on behalf of:	Applicants
Prepared by:	Odette McDonald, Phi Finney McDonald
Tel:	(03) 9134 7100
Email	odette.mcdonald@phifinney-mcdonald.com
Address for service:	Level 4, 325 Flinders Lane, Melbourne, Victoria 3000



Details of claim

Terms defined in the Amended Statement of Claim carry the same meaning when used in this Originating Application.

On the grounds stated in the accompanying Amended Statement of Claim, the Applicants claim on their own behalf and on behalf of Group Members:

1. Damages and/or exemplary damages from any or all Respondents, including for personal injury, loss of income and false imprisonment or deprivation of liberty.
2. Interest pursuant to statute.
3. A declaration that it is and was, at all times, unlawful for any officer of Australia to apply for or request an RPC Visa for:
 - a. the First Applicant; and/or
 - b. the Second Applicant; and/or
 - c. the Non-Excised Offshore Place Group Members; and/or
 - d. the Unauthorised Maritime Arrival Group Members; and/or
 - e. the Pre Administrative Arrangements Group Members; and/or
 - f. the Post Administrative Arrangements Group Members.
4. Costs.
5. Such further or other relief that the Court regards as appropriate.



Questions common to claims of group members

The questions of law or fact common to the claims of the Group Members, or sub-Group Members as defined, are:

1. Whether it was, at any time after 3 August 2013, unlawful for an officer of Australia to apply for or request an RPC Visa in the name of a Group Member without affording procedural fairness.
2. What was the process or procedure by which RPC Visas were applied for in the name of Group Members and whether that process or procedure failed to afford procedural fairness to Group Members.
3. Whether it was, at any of the following times:
 - a. from 3 August 2013 to 10 April 2014; and/or
 - b. from 11 April 2014 to 29 June 2015; and/or
 - c. from 30 June 2015,unlawful for an officer of Australia to apply for or request an RPC Visa in the name of a Group Member because they lacked legal power to do so.
4. If the answer to any of Questions 1, 2, 3(a), 3(b) and/or 3(c) is “Yes”:
 - a. whether any or all the First, Second, Third, Fourth and/or Fifth Respondents acted contrary to law; and/or
 - b. whether any or all the First, Second, Third, Fourth and/or Fifth Respondents acted beyond power; and/or
 - c. whether any or all the First, Second, Third, Fourth and/or Fifth Respondents recklessly disregarded the means of ascertaining the extent of their power to direct, authorise, cause and/or prevent officers of Australia from applying for or requesting an RPC Visa.
5. Did the Residence Condition operate in respect of each RPC Visa of each Group Member?
6. Was each Group Member required by reason of the conditions on an RPC Visa to reside in a place at which they were subjected to one or more of the Tent Conditions?



7. Whether it was, at any time after 3 August 2013, unlawful for officers of Australia to apply for or request an RPC Visa by reason of the breach of relevant human rights, including relevant children's human rights
8. Whether any of the First, Second, Third, Fourth and/or Fifth Respondents are liable for the tort of misfeasance in public office by reason of the allegations against each of them.
9. Whether the Sixth Respondent is:
 - a. directly liable; and/or
 - b. vicariously liablefor the conduct of the First, Second, Third, Fourth and/or Fifth Respondents done or omitted to be done.
10. What are the principles for identifying and measuring compensable loss and damage suffered by Group Members, including in respect of loss of income and false imprisonment or deprivation of liberty, as a result of any or all the Respondents' unlawful acts or omissions including for each of:
 - a. the Residence Condition; and/or
 - b. the Tent Conditions; and/or
 - c. the No Work Condition; and/or
 - d. the No Education Condition.

Representative action

The Applicants bring this application as representative parties under Part IVA of the *Federal Court of Australia Act 1976* (Cth).

The Group Members to whom this proceeding relates are persons who are defined in the Amended Statement of Claim.

**Applicants' address**

The Applicants' address for service is:

Place: Phi Finney McDonald, Level 4, 325 Flinders Lane MELBOURNE VIC 3000

Email: odette.mcdonald@phifinneymcdonald.com

The Applicants' address is: c/- Phi Finney McDonald, Level 4, 325 Flinders Lane
MELBOURNE VIC 3000

Service on the Respondents

It is intended to serve this application on the Respondents.

Date: 27 August 2019

A handwritten signature in black ink, appearing to be "Odette McDonald", is written above a horizontal dotted line.

Signed by Odette McDonald
Lawyer for the Applicants

**Schedule**

No. VID 816 of 2019

Federal Court of Australia

District Registry: Victoria

Division: General

Second Respondent:	Peter Dutton
Third Respondent:	Tony Burke
Fourth Respondent:	Martin Bowles
Fifth Respondent:	Michael Pezzullo
Sixth Respondent:	Commonwealth of Australia