

RULE 5.02(1)

IN THE COUNTY COURT OF VICTORIA AT M ELBOURNE

COMMON LAW DIVISION DEFAMATION LIST

Form SA

**WRIT**

BETWEEN:

**JOHN HUNT**

AND

**PAUL BAILEY**

and

**LOCAL EXPORTERS PTY** **LIMITED (ACN 083555 8865984)**

Plaintiff First Defendant

Second Defendant

Date of document: 23 December 2016

Filed on behalf of: The Plaintiff

Prepared by:

TROVE ASSOCIATES

Lawyers

66 Smiths Road BALWYN VIC 3103

Solicitors· Code: **107 812**

Tel: **(03) 9069 2525**

Fax: **(03) 9069 2526**

TO THE DEFENDANT

TAKE NOTICE that this proceeding has been brought against you by the plaintiff for the claim set out In this writ.

IF YOU INTEND TO DEFEND the proceeding, or if you have a claim against the plaintiff which you wish to have taken Into account at the trial, YOU MUST GIVE NOTICE of your Intention by tiling an appearance within the proper time for appearance stated below.

YOU OR YOUR SOLICITOR may file the appearance. An appearance is filed by-

1. filing a "Notice of Appearance· in the Registrar's office in the County Court Registry, 250 William Street, Melbourne, or, where the writ has been filed In the office of a Registrar out of Melbourne, In the office of that Registrar; and
2. on the day you file the Notice, serving a copy, sealed by the Court, at the plaintiff’s address for service, which Is set out at the end of this writ.

IF YOU FAIL to me an appearance within the proper time, the plaintiff may OBTAIN JUDGMENT AGAINST YOU on the claim without further notice.

THE PROPER TIME TO FILE AN APPEARANCE is as follows-

1. where you are served with the writ in Victoria, within10 days after service;
2. where you are served with the writ out of Victoria and In another part of Australia, within 21 days after service;
3. where you are served with the writ In Papua New Guinea, within 28 days after service;
4. Where you are served with the writ in New Zealand under Part 2 of the Trans­ Tasman Proceedings Act 201Dof the, Commonwealth, within 30 working days

{within the meaning of that Act) after service or, If a shorter or longer period has been fixed by the Court under section 13(1){b) of that Act, the period so fixed;

1. in any other case, within 42 days after service.

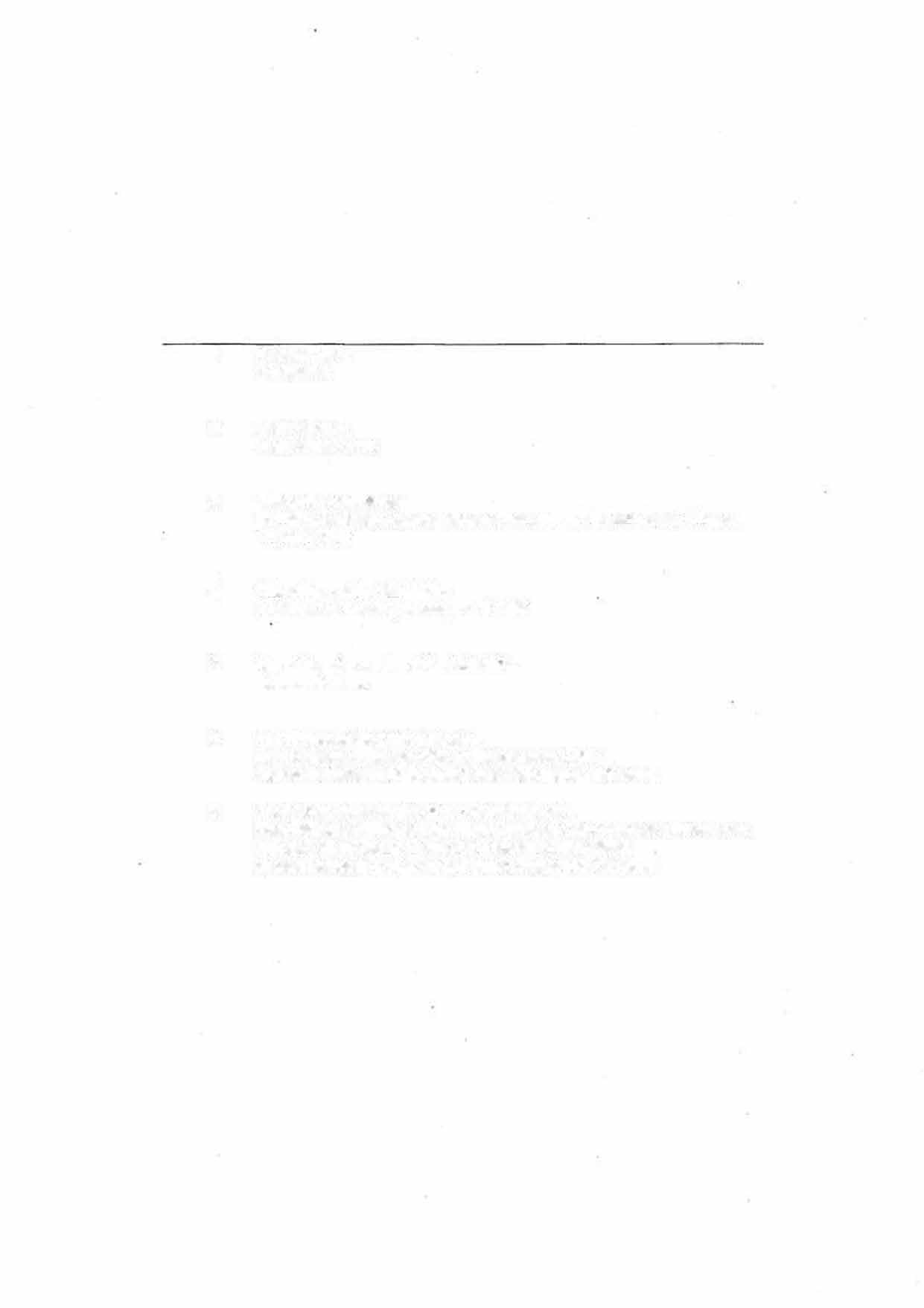
IF the plaintiff claims a debt only and you pay that debt, namely, $ and $

for legal costs to the plaintiff or his solicitor within the proper time for appearance, this proceeding will come to an end. Notwithstanding the payment you may have the costs taxed by the Court.

FILED

**Registrar**

THIS WRIT is to be served within one year from the date it is filed or within such further period as the Court orders.



**l. Place of trial - Melbourne**

1. **Mode of trial­ Judge sitting alone.**
2. **This writ was filed by -**

**Trove Associates 66 Smiths Road, Balwyn, Victoria, 3103.**

1. **The address of the Plaintiff is -**

**815 Georges Road, Glenroy VIC 3066**

1. **The address of for service of the Plaintiff is­ Same as 3 above.**
2. **The address of the Defendants are-**

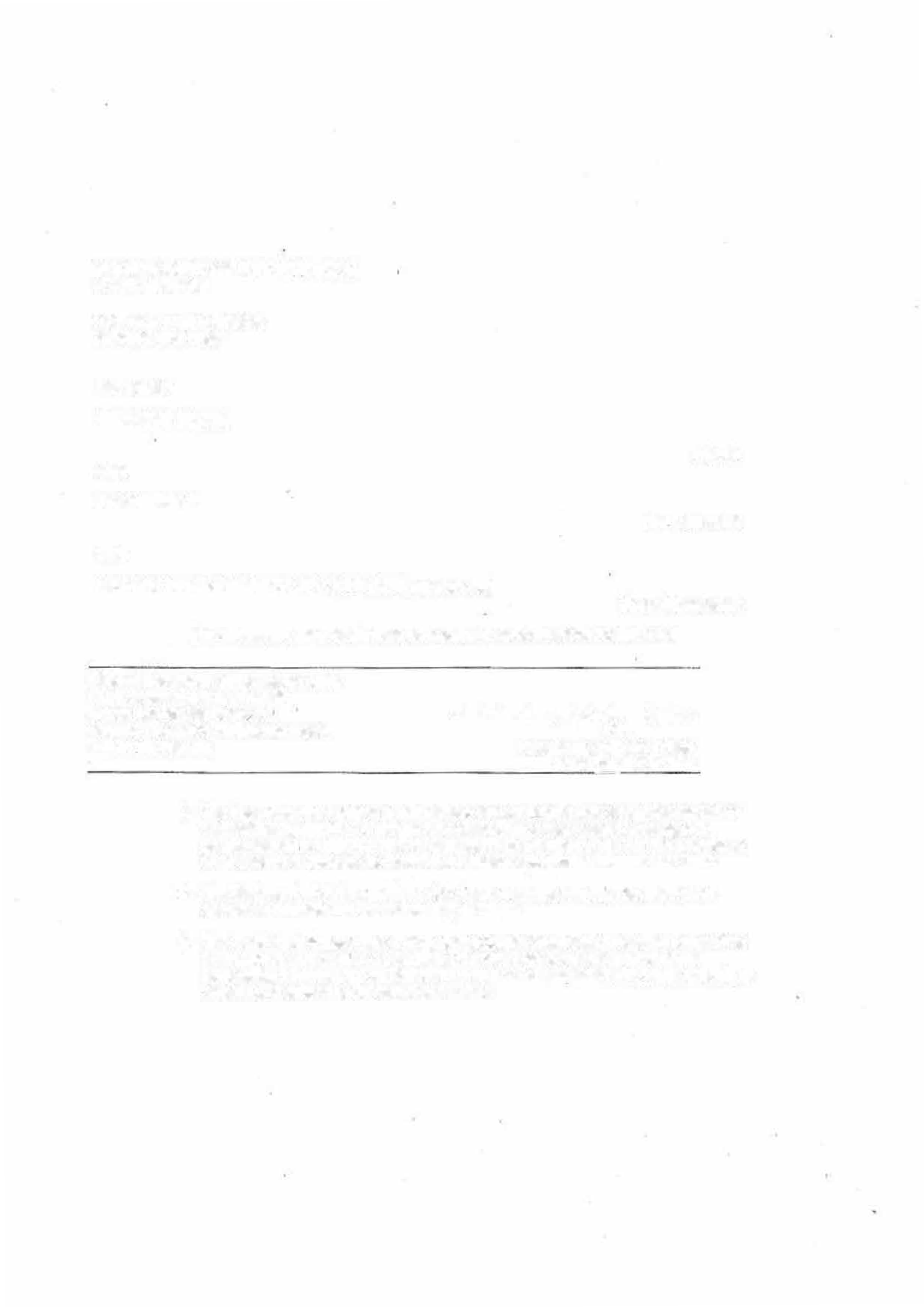
**First Defendant – 89 Atkins Road, Jollimont VIC**

**Second Defendant- 5 Westfield Street, Shepparton VIC 3630**

1. **The address for service of the Defendants are -**

**First Defendant - 89 Atkins Road, Jollimont VIC (Service in accordance lo Rule 7.0 I of County Court Civil Procedure Rules 2008)**

**Second Defendant - 5 Westfield Street, Shepparton VIC 3630**



**IN THE COUNTY COURT OF VICTORIA AT MELBOURNE**

**COMMON LAW DIVISION** DEFAMATION LIST

BETWEEN:

JOHN HUNT

ANO

PAUL BAILEY

and

LOCAL EXPORTERS PTY LTD

Plaintiff First Defendant

Second Defendant

**INDORSEMENT ON ORIGINATING PROCESS IN ACCORDANCE** TO **RULE 7.01**

Date of Document 23 December 2016 Filed on behalf of: The Plaintiff

Trove Associates Lawyers

66 Smiths Road,

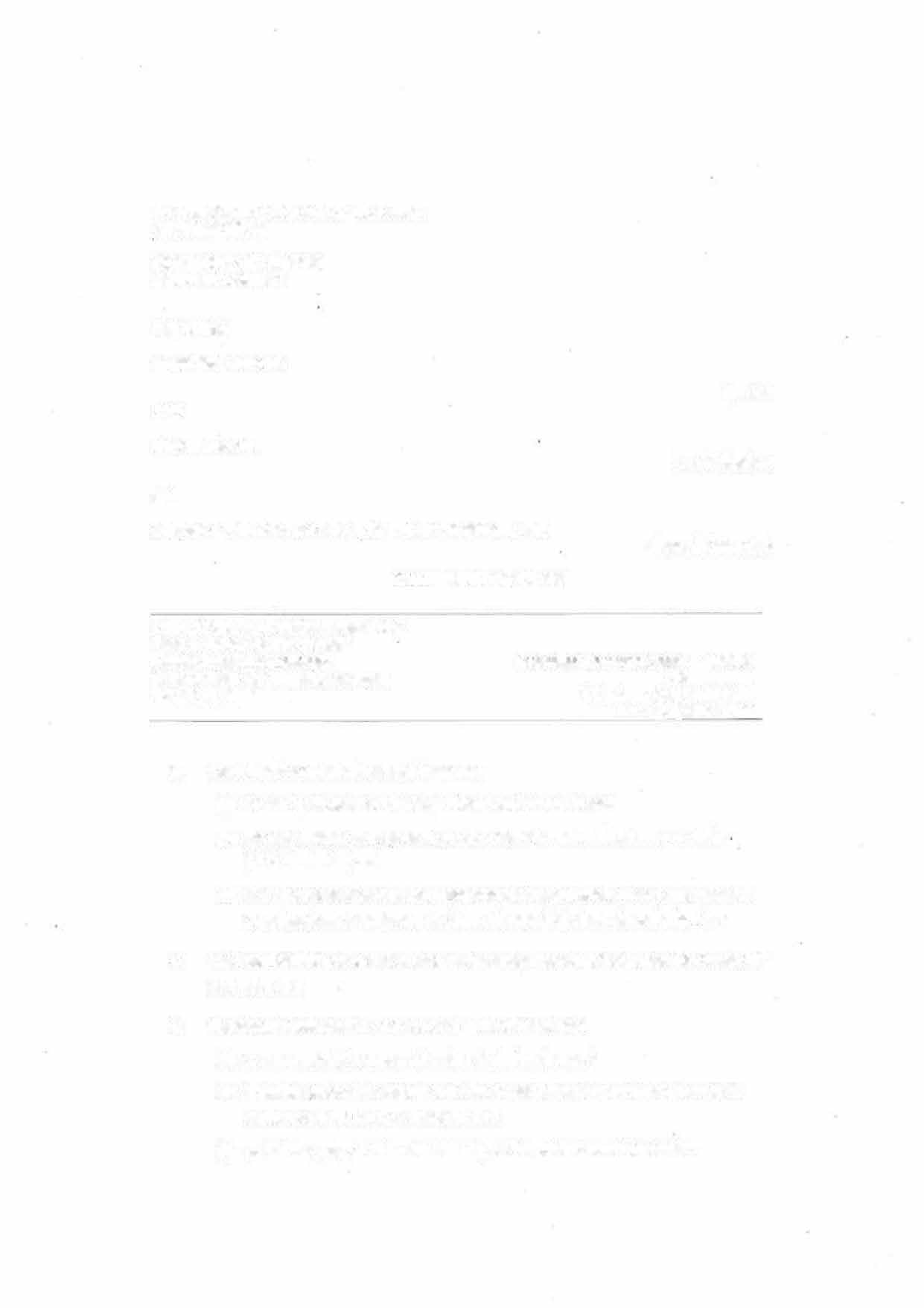
BALWYN, Victoria

Solicitors· Code: **107 812**

Tel: **(03) 9069 2525**

Fax: **(03) 9069 2526**

* 1. The First Defendant who currently resides out of Australia has committed the tort of defamation against the Plaintiff by way or sending various WeChat messages to people associated with the Plaintiff and emails to suppliers of the Plaintiffs business in an attempt to damage the Plaintiffs business reputation in Victoria and China.
  2. The Statement of Claim contains a list of acts committed by the First Defendant against the Plaintiff that are defamatory in nature.
  3. The Plaintiff relied upon Rule 7.010) of the County Court CMI Procedure Rules 2008. In support of such service on the First Defendant out of Australia, in which the proceeding is brought by the Plaintiff in respect of damage suffered wholly or partly in Victoria and caused by the tort of defamation.



**IN THE COUNTY COURT OF VICTORIA AT MELBOURNE**

**COMMON LAW DIVISION** DEFAMATION LIST

BETWEEN:

JOHN HUNT

AND

PAUL BAILEY

and

LOCAL EXPORTERS PTY LTD

STATEMENT OF CLAIM

Plaintiff First Defendant

Second Defendant

Date of Document: 23 December 2016

Filed on behalf of: The Plaintiff

Trove Lawyers Australian Lawyers Code: 107830

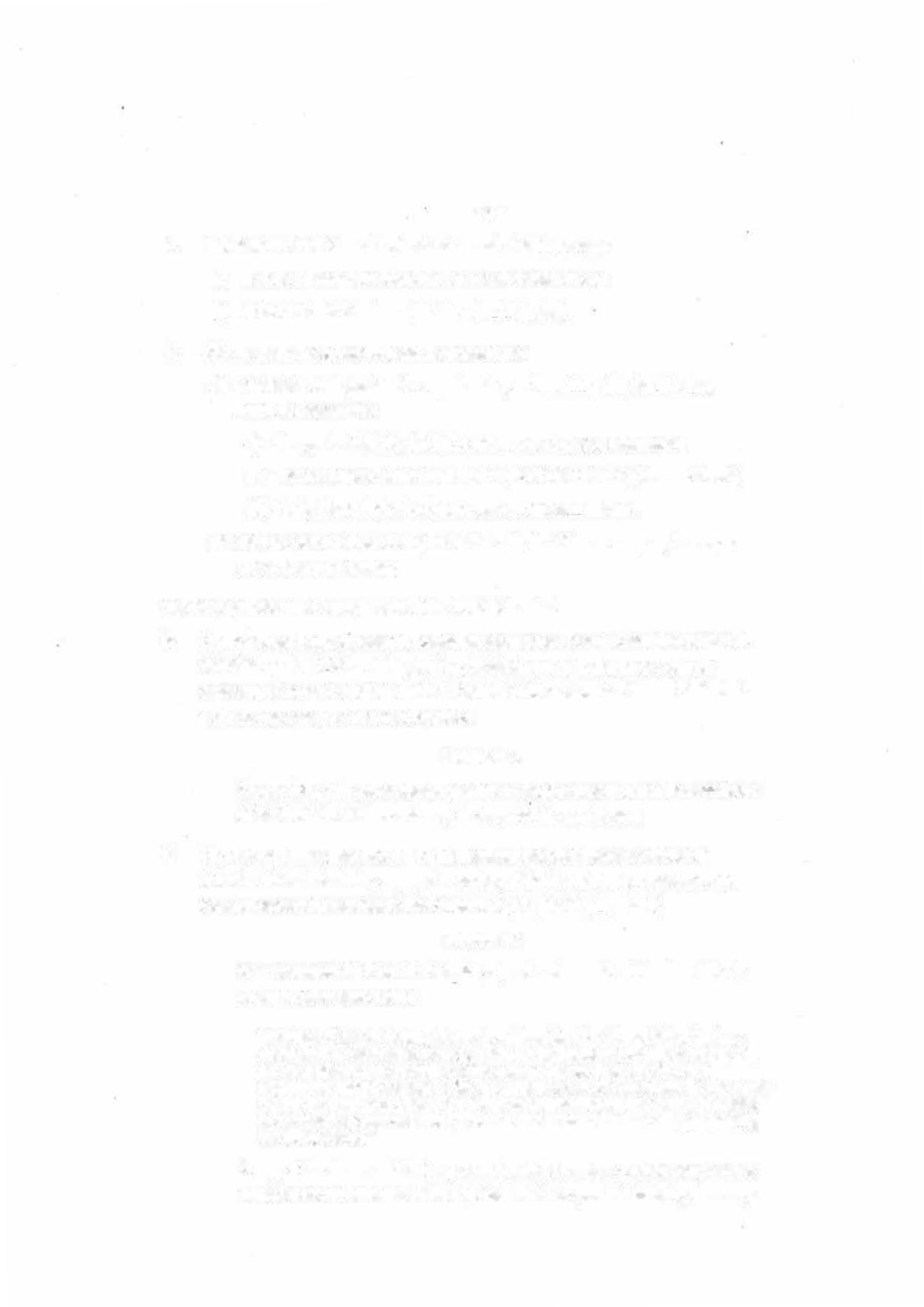
Ground Floor, 66 Smiths Road, DX:

BALWYN, Victoria

* 1. The Plaintiff is and at all material times was:
     1. known by the names ‘John Hunt' and ‘Joseph Hunter’;
     2. the sole director and secretary of Hunt Australia Pty Lid (ACN 605 666 025) (Hunt Australia); and
     3. in the business of purchasing meat products from Australian meat suppliers and exporting them to customers in China, through Hunt Australia and otherwise.
  2. The First Defendant is and at all material times was known by the names ‘Paul Bailey’

and 'Peter Bison'.

* 1. The Second Defendant is and was at all times:
     1. a company duly incorporated under Australian law; and
     2. inthe business of the supply and sale of beef, lamb and pork meal products to customers including Hunt Australia; and
     3. part of the group of companies trading as Ashcombe Foods Australia'.



* 1. The directors of the Second Defendant are and at all times were:
     1. Mr Jason Jack Woodward (Mr Woodward Senior); and
     2. Mr Jason Joseph Woodward (Mr Woodward Junior).
  2. Hunt Australia, to the knowledge of the Defendants:
     1. purchases meat products for export each year from the following Australian companies:
     2. Sandy Australia Pty Ltd (Sandy Australia);
     3. Devlin Products Pty Ltd (Devlin Foods)
     4. Apple Meats Pty Ltd (Apple Meats).
     5. exports meat products each year to Australia via the Chinese company known as Hunt China (Hunt China).

The Second Defendant engagement of the First Defendant

* 1. On 26 October 2016, the Second Defendant commenced County Court Proceeding Cl- 16-04865 against Hunt Australia, claiming US $258,970.61 in relation to a dispute concerning a contract allegedly made in October 2015 between the Second Defendant and Hunt Australia (the Contract Dispute).

Particulars

A copy of the Writ and statement of claim in the above proceeding is in the possession of the Plaintiffs solicitors and may be inspected by appointment.

* 1. On or about 1 November 2016 Mr Sean Hatcher, the Chief Executive Officer of Ascombe Foods Australia, engaged or employed the First Defendant to work for the Second Defendant in relation to the Contract Dispute (the Engagement),

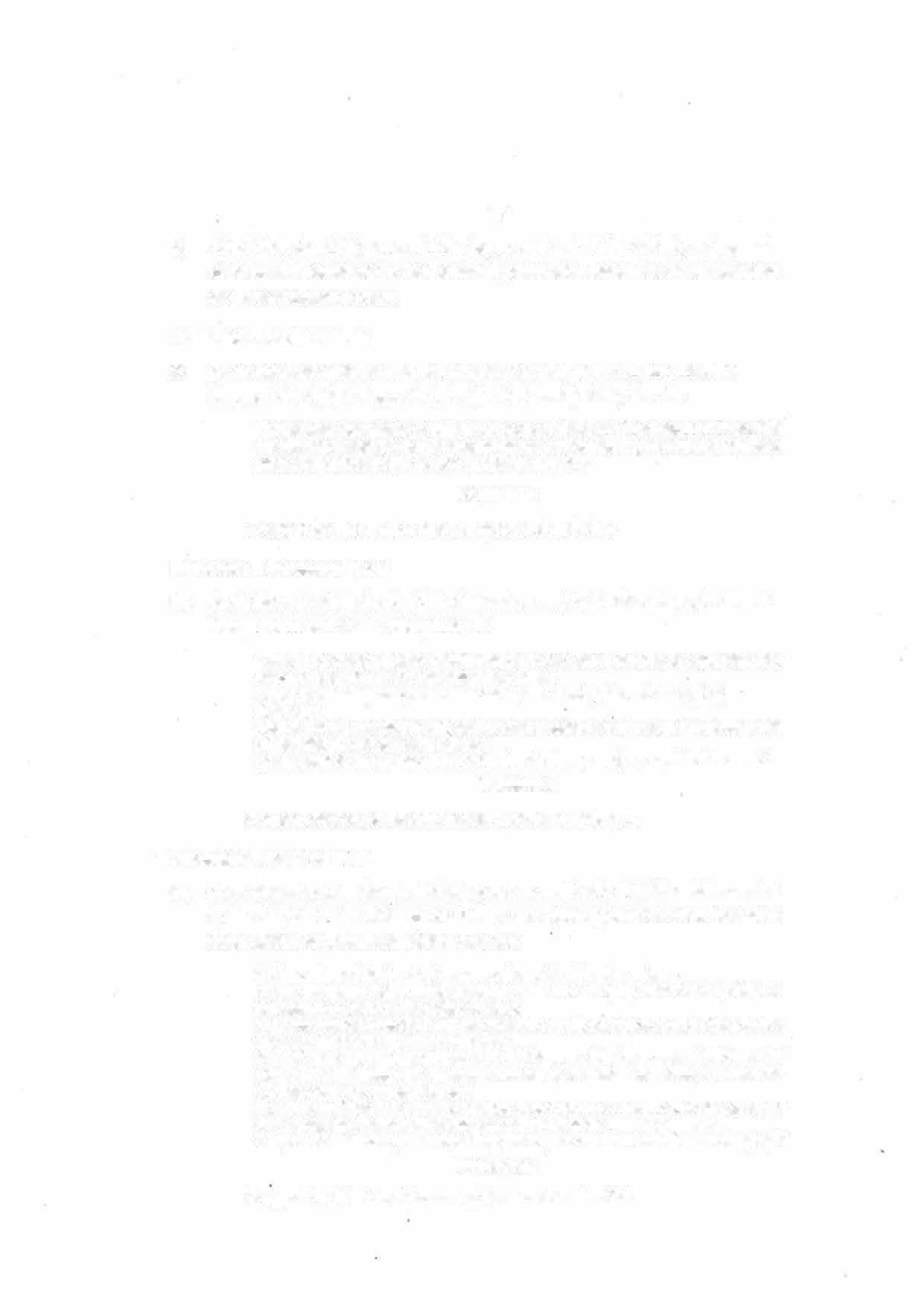
Particulars

On 1 November 2016 the Mr Hatcher, signed a document on Ascombe Foods Australia letterhead, stating:

*'To whom it may concern, please be advised that Mr Paul Bailey, of Sydney Australia is authorized to represent Local Exporters Pty Ltd a wholly owned subsidiary of Ascombe Foods Australia Pty Ltd in*

*negotiation and discussions with representatives of Hunt Australia Ply Ltd in the People's Republic of China, in relation to outstanding monies owing in relation to purchase of meat and meat products and accrued interest charges totaling US $280,956.06.•*

A copy of the document is in the possession of the Plaintiffs solicitors and may be inspected by appointment. Further particulars will be provided following discovery.



* 1. After 1 November 2016, pursuant to the Engagement and with the authority and approval of the Second Defendant, the First Defendant published the statements of and concerning the Plaintiff referred lo below.

Publication - the First Email

* 1. On 14 November 2016, the First Defendant sent an email to Tim Sampson, the Salas Manager China/Asia of Sandy Australia (the First Email), stating inter alia:

"*I need your assistance to pull out all your old invoices of Hunt Australia to send to the Chinese customs anti smuggling agency for comparing the original purchase price and replaced price on Hunt Australia's invoice.•*

Particulars

Publication - the Second Email

* 1. On 22 November 2016, the First Defendant sent an email to Joel Best, the Export

Manager of Devlin Products, stating inter alia:

*John is a crook full slop. Pretending he is Hunt China, but that is* *not to say they are not connected under the table/ corruption.*

*John Is**offending every countries law by tax evading tax and smuggling/*

*Wake up/*

*You do not want to be investigated by China customs anti smuggling agency, +86* 21-65975134. *Ask for Officer Chung,*

*I have more to come: Get all your invoices to John ready or send to this email."*

Particulars

Publication - the Third Email

* 1. On 28 November 2016, the First Defendant sent an email to the Plaintiffs solicitors copied

to, inter alia, Tim Sampson of Sandy Australia, and to Peter Fox, the Sales Manager of Apple Meats (the Third Email), stating inter alia:

*"I have planned for Hunt debt recovery today the following actions:*

1. *My aboriginal elders debt recovery team will* *be flying from Alice springs to*

*Melbourne to come to Hunt office to camp.*

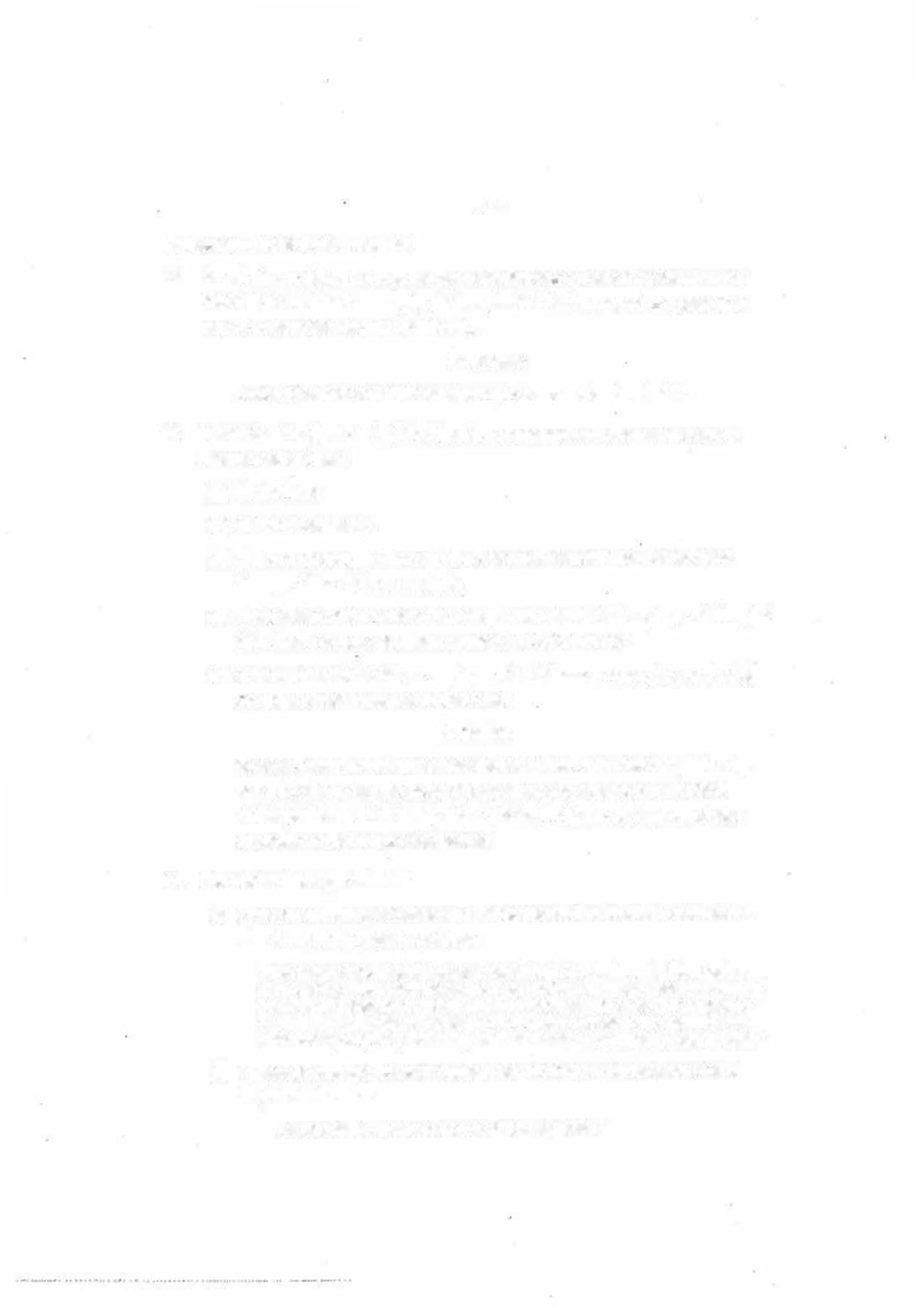
1. *I have informed abc four corners about Mr Hunt posing to be Hunt China to trick the poor Aussie butchers like 866 plant.*
2. *I will have my lawyer goes to ATO Melbourne office to re complaint about Mr Hunt not disclosing his overseas income by teaching the officers to use the*

*Chinese web site tianyancha.com*

*If you do not think that is deadly enough, then I will have* to *walk to China customs anti smuggling section with* a *few your old invoices for various suppliers!*

*Sorry to be harsh and you are pushing me to go to the next level of crime stopping"*

Particulars



Publication -theWeChat Messages

* 1. On and after 14November 2016 the first Defendant sent a series of messages on the WeChat' internet-based messaging platform (the WeChat messages) to a group of at least 16 persons (the WeChat recipients)

Particulars

* 1. The WeChat Recipients include the following persons involved in the meat industry in Australia and/or China;
     1. Sean Hatcher;
     2. Mr Ascombe Junior,
     3. Harold Ling (Mr Ling), who is and at all material times was the Sales Manager-China of Sandy Australia;
     4. Ling Chi Chang and Ling Ha Li, each of whom is an employee of Shanghai Yingi Trade Co. Ltd, a significant customer of Hunt China; and
     5. a person identified as 'BUI', an employee of the Chinese company Leway Trading Co. Ltd, a potential customer of Hunt China.

Particulars

Some of the WeChat Recipients describe themselves on theWeChat platform by name, but others describe themselves by aliases and cannot yet be identified.

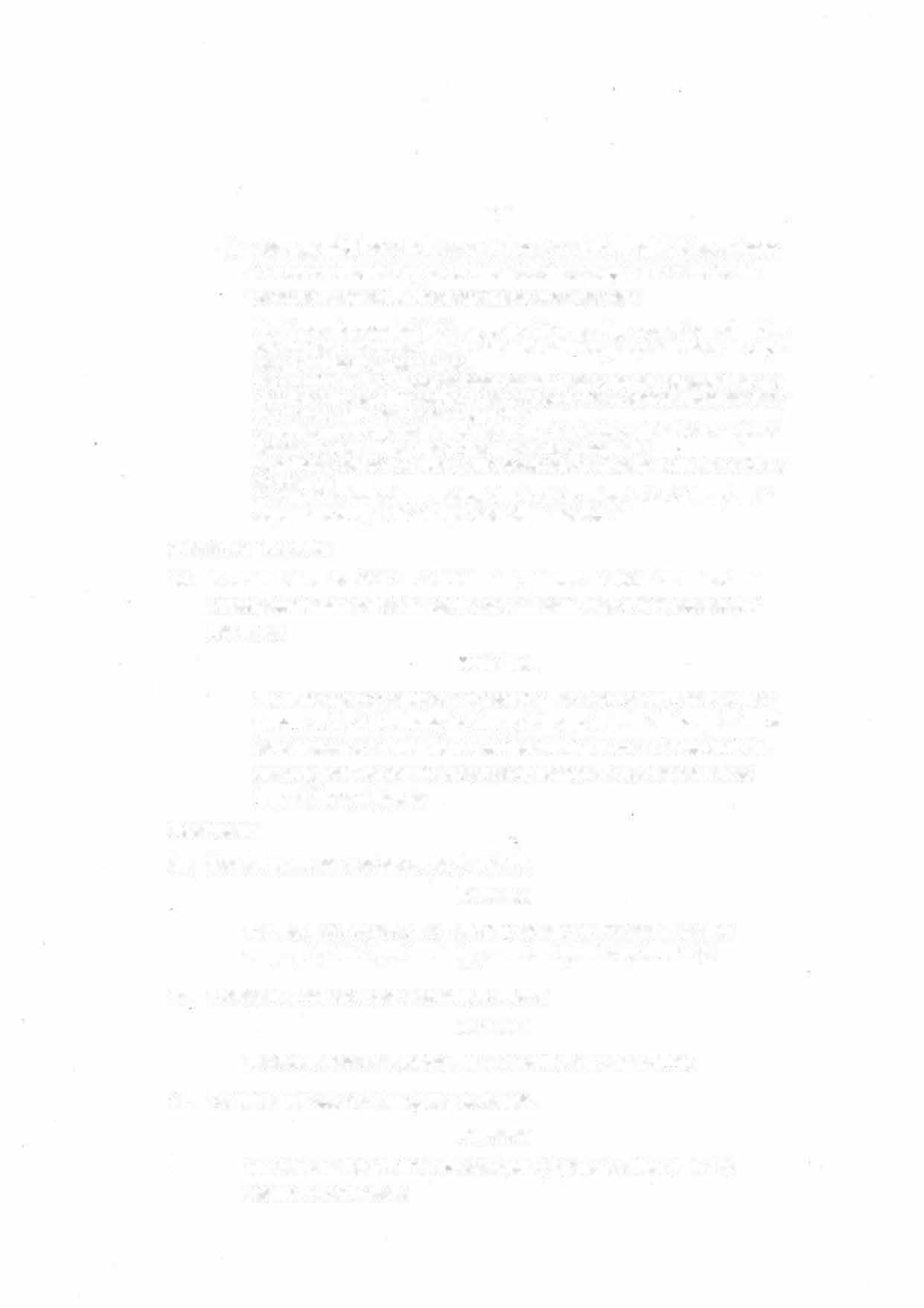
Further particulars of the identity of the We Chat Recipients will be provided after discovery and the service of subpoenas.

* 1. The WeChat Messages Included:
     1. a message published at 9.56am on 14 November 2016 in Mandarin which states, when translated to English, as follows:

*"Gentlemen: Good morning [sunny face emoji], Due to the principle of being open and not doing anything covert, I am* *not lying to everyone about the working schedule for Monday 1. According to the requirements of the Anti-smuggling Department of the Custom Office, collect further evidence on Hunt Australia and* other *country original purchasing invoices. Focus on produces a higher value.”*

* + 1. a message published between 10.01am and 10.07am on 14 November 2016 in English which states:

*·John (sic) is money source is**highly suspicious.•*



* + 1. a message published at 10.30pm on 18 November 2016 in English, being an image of an email sent on that day to the Plaintiffs solicitors, copied to Mr Hatcher, Mr Ascombe Junior and Mr Ascombe Senior, stating inter alia:

•... *I have also reported Mr Hunt to the ATO regarding my suspicion about him not declaring his income from James Hoo Lei trading company which he is the major owner and legal representative.*

*As a matter of fact, I have the tape recording regarding my discussion with the customs anti-smuggling section, I have volunteered to be there (sic) informer about Mr Hunt’s highly suspicious transactions.*

*Should you have any doubt about the above, I have the email address and phone number of Officer Wang who is In charge of this investigation.*

*As a friendly advice to Mr Hunt: pay the debt and avoid going to jail either in China or Australia.*

*Last not the least, please advise that I will be going to the Chinese taxation department to report Mr Hunt’s other Illegal activities.·*

Publication – the video

* 1. In or about November 2016 the First Defendant published on WeChat an audio-visual recording containing inter-titles in English and/or Mandarin, entitled "Ed's Documentary" (the Video).

Particulars

The Video runs for 1 minute and 34 seconds. The Video was published to various persons on WeChat including Mr Chuang of Sanger Australia. Further particulars or

the publication of the Video will be provided following discovery. An electronic file

containing the Video is in the possession of the Plaintiffs solicitors and may be Inspected by appointment.

Identification

* 1. The First Email was of and concerning the Plaintiff.

Particulars

The First Email identified the Plaintiff by referring lo Hunt Australia, which

company is, to Mr Jones’ knowledge, owned and operated by the Plaintiff.

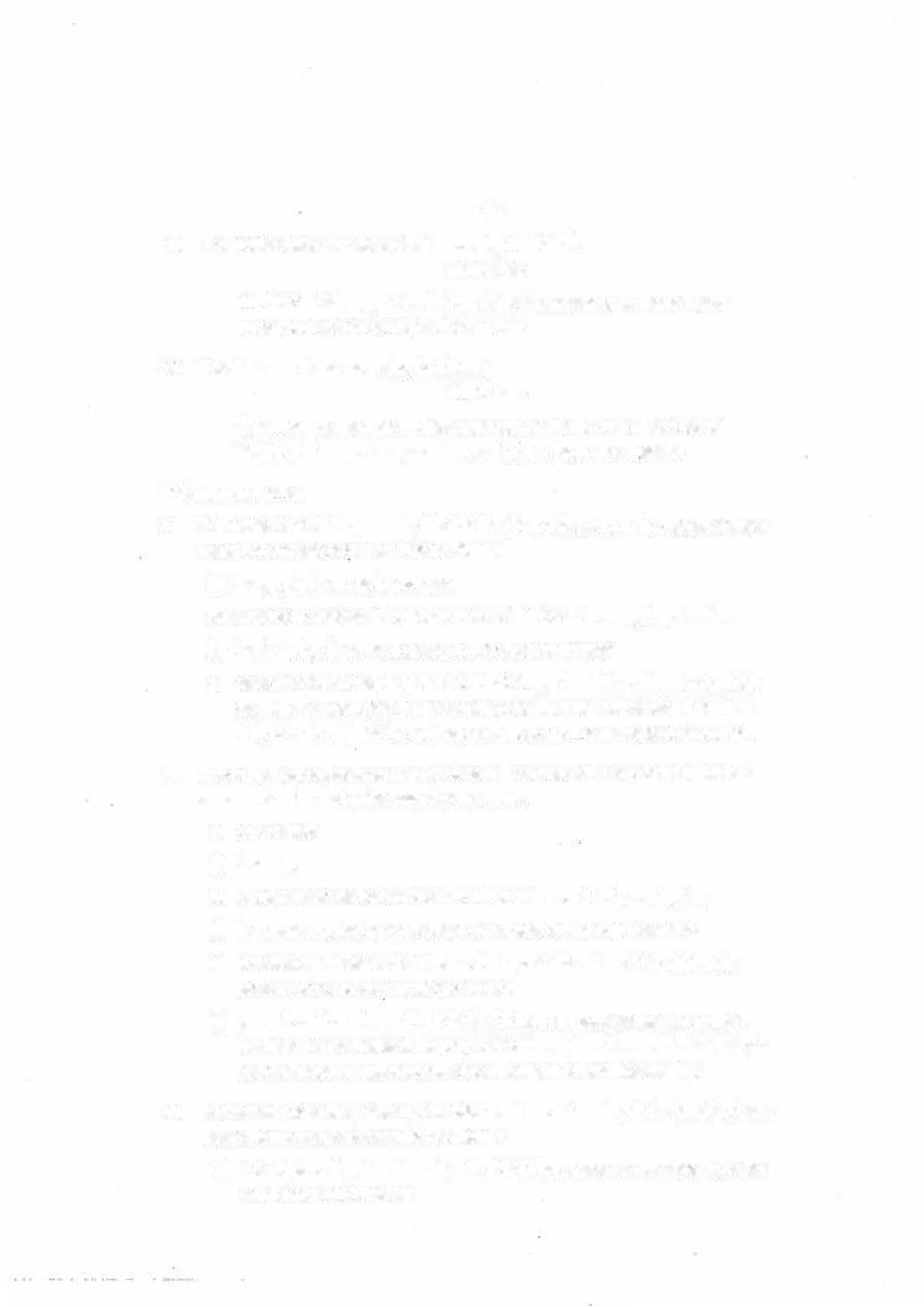
* 1. The Second Email was of and concerning the Plaintiff.

Particulars

The Second Email identified the Plaintiff expressly by the name ‘John’.

1. The Third Email was of and concerning the Plaintiff.

Particulars

The Third Email Identified the Plaintiff expressly by the name ‘John’, and by referring to Hunt Australia.

1. The WeChat Messages were of and concerning the Plaintiff.

Particulars

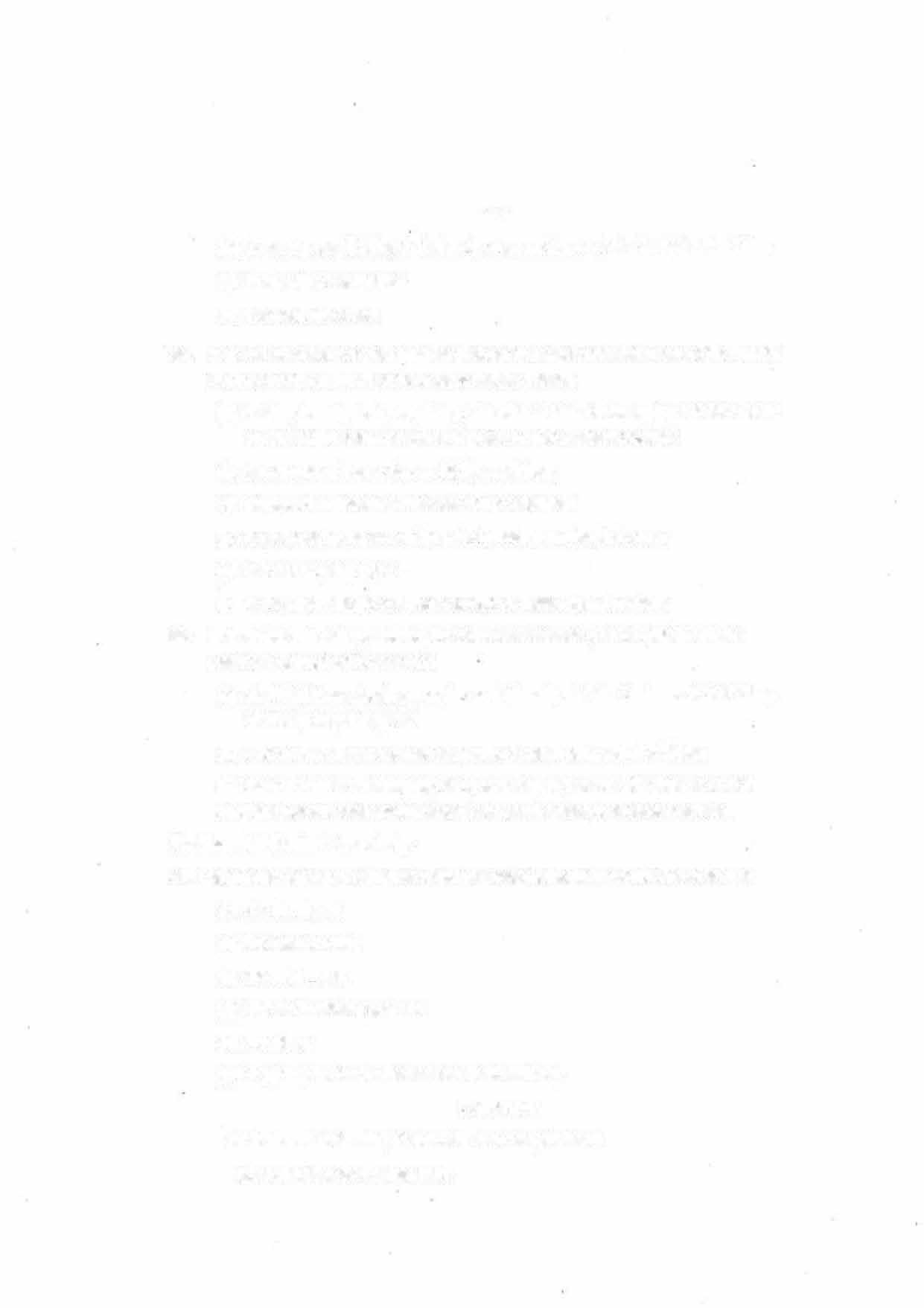
The WeChat Messages Identified the Plaintiff expressly by the name John Hunt, and also by referring to Hunt Australia.

1. The Video was of and concerning the Plaintiff.

Particulars

The Video identified the Plaintiff expressly as John Hunt, by showing multiple photographic images of him, and by referring to Hunt Australia.

Defamatory meaning

1. In its natural and ordinary meaning the First Email was defamatory of the Plaintiff and was meant and understood to mean that the Plaintiff:
   1. is engaging in smuggling activities;
   2. is being investigated by regulatory authorities in China for smuggling activities;
   3. is misstating the prices of goods on Hunt Australia Invoices;
   4. presents a risk to Sandy Australia in that if Sandy Australia continues to deal with the Plaintiff or with the Plaintiffs company Hunt Australia, then Sandy Australia is likely to be investigated by regulatory authorities in China in relation to smuggling.
2. In its natural and ordinary meaning the Second Email was defamatory of the Plaintiff and was meant and understood to mean that the Plaintiff:
   1. is a criminal;
   2. is corrupt;
   3. is contravening the laws of Australia and of other countries by evading tax;
   4. is contravening the laws of Australia and of other countries by smuggling;
   5. is misleading Mr Best, and Devlin Products, as to the nature of the relationship between Hunt Australia and Hunt China; and
   6. presents a risk to Devlin Products in that if Devlin Products continues to deal with the Plaintiff or the Plaintiffs company Hunt Australia, then Devlin Products is likely to be investigated by regulatory authorities in China in relation to smuggling.
3. In its natural and ordinary meaning the Third Email was defamatory of the Plaintiff and was meant and understood to mean that the Plaintiff:
   1. is misrepresenting his relationship with Hunt China, to persons with whom he and/or Hunt Australia do business;
   2. is evading tax by failing to declare his overseas Income to the Australian Tax Office;
   3. is engaging in smuggling;
   4. is engaging in crime.
4. In its natural and ordinary meaning the WeChat Messages were defamatory of the Plaintiff and were meant and understood to mean that the Plaintiff:
   1. is being investigated by regulatory authorities in China for smuggling activities and/or for misstating the prices of goods on Hunt Australia invoices;
   2. has sources of money that are highly suspicious;
   3. engages in transactions which are highly suspicious;
   4. is contravening the laws of Australia by under-reporting his income;
   5. Is at risk of going to jail;
   6. is engaging in illegal activities in addition to those referred to above.
5. In its natural and ordinary meaning the Video was defamatory of the Plaintiff and was meant and understood to mean that:
   1. the Plaintiff has a family connection or relationship with the Chairman of Hunt China, Mr Lee; and
   2. Hunt Australia has a business connection or relationship with Hunt China;
   3. and that the Plaintiff is deliberately misrepresenting, to persons with whom he or Hunt Australia does business, the true nature and extent of each of those connections.

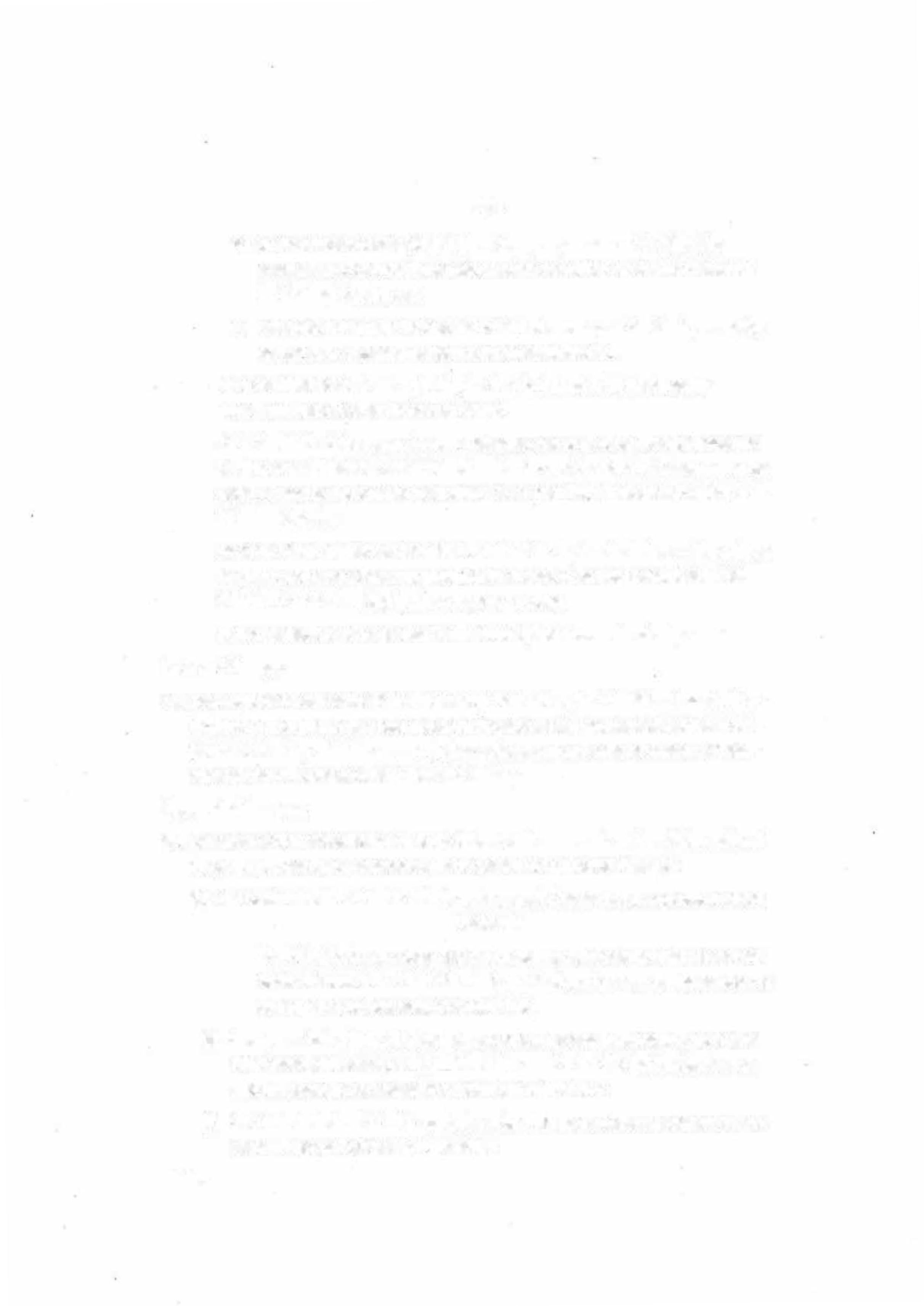
The Second Defendant's knowledge

1. The Second Defendant authorised and/or was responsible for the publication of each of:
   1. the First Email;
   2. the Second Email;
   3. the Third Email;
   4. the WeChat Messages; and
   5. the Video;

All together the Defamatory Publications

Particulars

1. As to all each Defamatory Publication, each was published:
   1. pursuant to the Engagement;



* 1. for the purpose of attempting to place improper pressure on the Plaintiff to procure that Hunt Australia pay the amounts claimed by the Second Defendant the Contract Dispute; and
  2. within one month after the Second Defendant commenced the Court proceedings against Hunt Australia in relation to the Contract Dispute.

1. As to the Third Email, it was copied by the First Defendant to Mr Hatcher, Mr Ashcombe Junior, and Mr Ashcombe Senior.
2. As to the WeChat Messages, the First Defendant sent each of the WeChat Messages to, inter alia, Mr Hatcher and Mr Ashcombe Junior; and the First Defendant copied the email referred to referred to at paragraph 9 ( and 4(c) above), to Mr Hatcher, Mr Ashcombe Junior, to Mr Ashcombe Senior.
3. As to the Video, the first two Inter-titles contained the caption "In Autumn... Two pals go to China” and were followed by photographic images of the First Defendant and Mr Ascombe Junior travelling by plane together to China

Further particulars will be provided after discovery and the service of subpoenas.

**Loss and damage**

1. As a result of the publication of the Defamatory Publications, the Plaintiff has been held up to ridicule and contempt, has been Injured in his personal and professional reputation as a person of standing within his community, has suffered hurt and embarrassment and has suffered and will continue to suffer loss and damage.

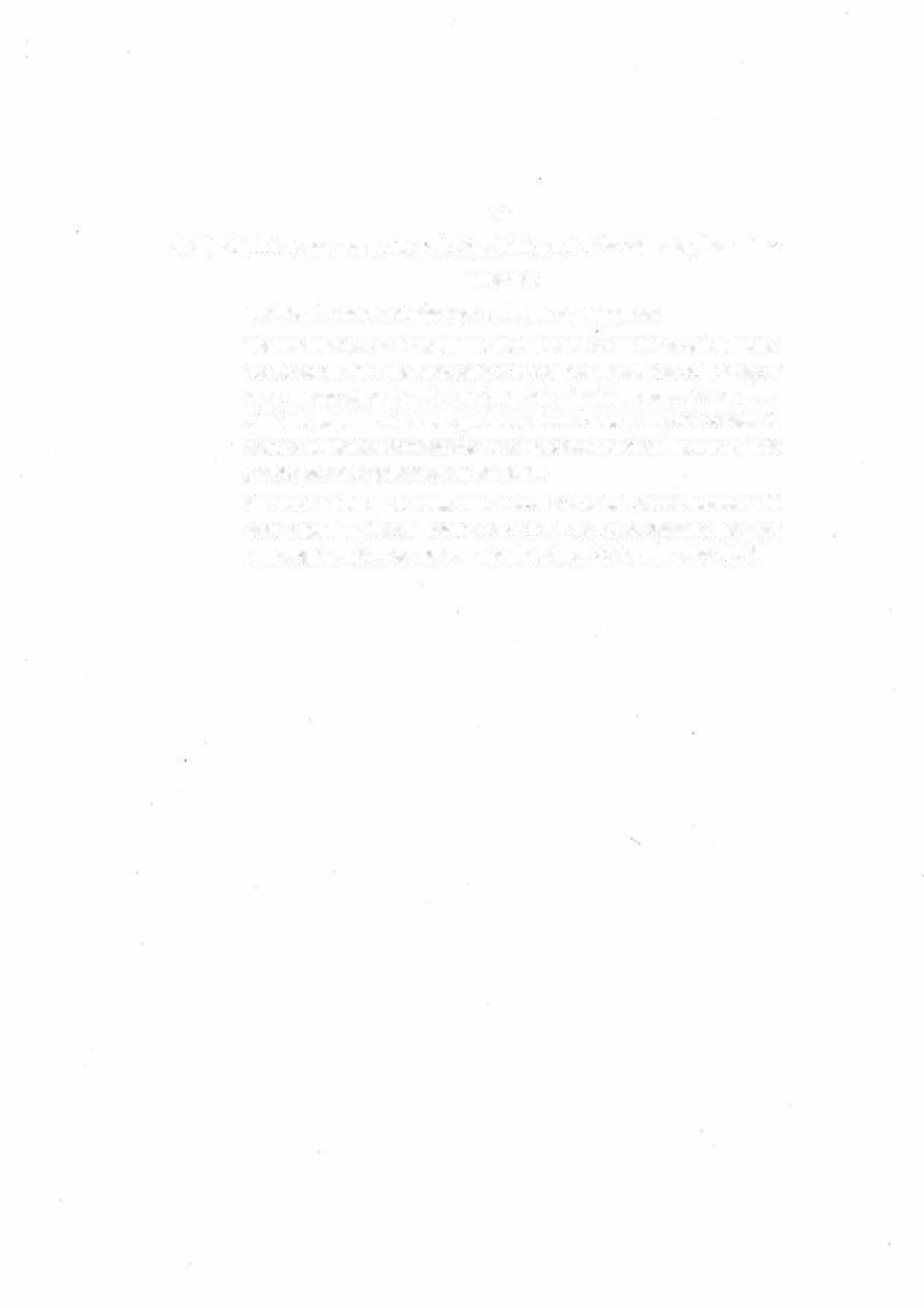
**Aggravated damages**

1. By reason of the matters below, the hurt, distress, embarrassment and humiliation suffered by the Plaintiff has been increased and he is entitled to aggravated damages:
   1. the Defendants have failed to offer to make amends, despite being requested to do so;

Particulars

* 1. The Plaintiff refers to a letter dated 18 November 2016 sent by email on that day by his solicitors to the First Defendant constituting a Concerns Notice pursuant to section 14 of the Defamation Act 2005 (Vic).
  2. In response to that letter, the First Defendant sent the email referred to in paragraph 14(c) above, and subsequently published that email to the WeChat Recipients as a WeChat message, as referred to in paragraph 14(c) above;
  3. the Defendants have failed to apologise to the Plaintiff, or to take any steps to retract and/or clarify the Defamatory Publications.

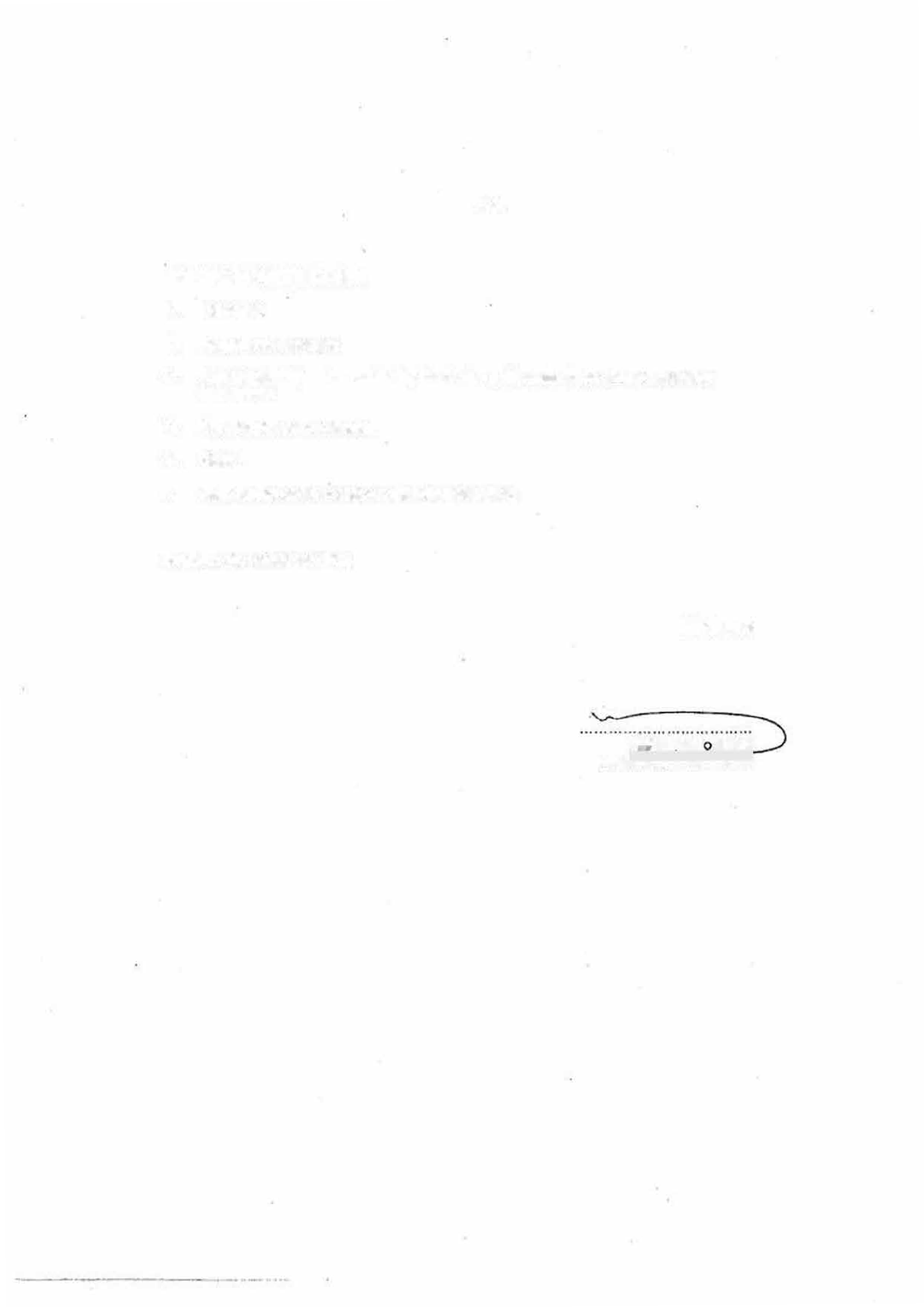
Malice



1. The Defendants were actuated by malice in publishing each of the Defamatory Publications.

Particulars

* 1. The Plaintiff refers to and repeats the particulars to paragraph 26.
  2. The First Email was sent to Sandy Australia, the Second Email was sent to Devlin Products, and the Third Email was copied to both Sandy Australia and Apple Meats, in circumstances where the Defendants knew that each or those companies supplies a significant proportion of the meat products purchased each year by Hunt Australia for export, and in an attempt to dissuade those companies from continuing to supply meat products to Hunt Australia and/or to the Plaintiff.
  3. The WeChat Messages and the Video were sent to various persons involved In the meat industry in Australia and/or China, in an attempt to dissuade them from continuing to supply or purchase meat products from Hunt Australia or the Plaintiff.



AND THE PLAINTIFF CLAIMS:

* + 1. Damages.
    2. Aggravated damages.
    3. A permanent injunction restraining the further publication or the above defamatory Imputations.
    4. Interest pursuant to statute.
    5. Costs.
    6. Such further or other costs as the Court sees fit

DATED: 23 December 2016

MJ Johnstone

Solicitors for the Plaintiff

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