

## Form 6.2

## Application in proceeding

*Court Procedures Rules 2006*

(see r 6007 (Application in proceeding—contents))

In the Supreme Court of the Australian Capital Territory

No SC 347 of 2023

Rules 220 and 3556, *Court Procedures Rules 2006*

**Michael Chew**

**Scott Moller**

**Marcus Boorman**

**Robert Rose**

**Trent Madders**

**Emma Frizzell**

Applicants

**Neville Shane Drumgold**

First Respondent (Plaintiff)

**Board of Inquiry – Criminal Justice System**

Second Respondent (First Defendant)

**Australian Capital Territory**

Third Respondent (Third Defendant)

**Take notice** that the Court will hear an application by the Applicants on \_\_\_\_\_, at  
(or as soon after that as this application can be heard), to make the following order:

The Applicants be joined as the Fourth Defendant in proceedings No SC 347 of  
2023.

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Filed for the Applicants by:

**Gnech & Associates Lawyers**

Level 9/193 North Quay, Brisbane, Queensland 4000

Telephone: (07) 3358 1040

## Grounds of application

The orders are sought on the following grounds:

1. The Applicants were at all material times sworn members of the Australian Federal Police – Community Policing Australian Capital Territory.
2. The Applicants were granted leave to be legally represented in the Board of Inquiry – Criminal Justice System (“**BOI**”).
3. All of the Applicants received subpoenas to provide written statements, which they subsequently provided, and some gave oral evidence in the public hearings before the BOI.
4. All of the Applicants received on 9 June 2023, and responded to, a Notice of Proposed Adverse Comments issued by the BOI.
5. The Plaintiff makes application to review the final report of the BOI, dated 31 July 2023 (“**the Report**”).
6. The Plaintiff seeks relief including declarations that the Report is, or alternatively the parts of the Report which relate to the Plaintiff are, invalid, or unlawful, or otherwise affected by apprehended bias or a denial of natural justice.
7. The Applicants were the subject of findings and comments in the Report. Many of those findings and comments are about matters that are relevant to their reputations and their careers, and some of those findings and comments express conclusions about the veracity or otherwise of serious allegations made with respect to the character and conduct of some of the Applicants.

8. The Applicants are a proper defendant to the Originating Application within the operation of r 3556(4)(a) of the *Court Procedures Rules 2006*, because:
- (a) The Applicants are interested in maintaining the findings and comments made in the Report that relate to them, because those findings and comments are generally favourable to the Applicants, and form part of a public record about matters relevant to their reputations and careers. The Applicants would be directly affected by the relief sought because if such relief were granted (in full or in part), such relief would have the effect of invalidating, declaring unlawful, or otherwise impugning some or all of the findings and comments in the Report that the Applicants have an interest in maintaining.
  - (b) Further, the Applicants are interested in maintaining the findings and comments in the Report that relate to them, because, if the relief sought were granted (in full or in part), the Applicants would then be liable to submit to any further inquiry or process which may be instituted as a consequence of the impugment of the Report, which may include exposure to a new risk of adverse comments or findings. The Applicants would be directly affected by the relief sought because if such relief were granted (in full or in part), such relief may have the consequence that the Applicants would then be liable to submit to any further such inquiry or process, and any such associated risk.
9. The Court may therefore order that the Applicants be included as a party to the proceeding because they “ought to have been included as a party” (pursuant to r 3556(4)(a) and r 220(1)(a)), or, alternatively, because their inclusion as a party is necessary to enable the Court to adjudicate effectively and completely on all issues in dispute in the proceeding (r 220(1)(b)).

## Supporting material

This application is supported by the following affidavits:

1. Affidavit of Calvin Gnech, sworn 13 October 2023.

Date: 13 October 2023



Calvin Gnech  
Gnech & Associates  
Solicitor for the Applicants

To:	<b>The Plaintiff</b>
Full Name:	Neville Shane Drumgold
Address:	c/- Office of the Director of Public Prosecutions Reserve Bank Building 20-22 London Circuit Canberra City ACT 2601
Solicitor's full name:	Ian Alexander Meagher
Solicitor's firm:	Bradley Allen Love Lawyers
Solicitor's full business address:	Level 9, 40 Marcus Clarke Street Canberra ACT 2601
Solicitor's telephone no:	(02) 6274 0999

And to: **First Defendant**  
Full Name: Board of Inquiry – Criminal Justice System  
Address: c/- Gilshenan & Luton Legal Practice  
Level 9, 15 Adelaide Street  
Brisbane QLD 4000  
Solicitor's full name: Glen Cranny  
Solicitor's firm: Gilshenan & Luton Legal Practice  
Solicitor's full business address: Level 9, 15 Adelaide Street  
Brisbane QLD 4000  
Solicitor's telephone no: (07) 3361 0222

And to: **Third Defendant**  
Full Name: Australian Capital Territory  
Address: Plaza Level  
13 Constitution Avenue  
Canberra City ACT 2601  
Solicitor's full name: Derek Kettle  
Solicitor's firm: Australian Government Solicitor  
Solicitor's full business address: 13 Constitution Avenue  
Canberra City ACT 2601  
Solicitor's telephone no: (02) 62070635

**Address for service of documents** Gnech and Associates Lawyers  
Level 9, 193 North Quay, Brisbane, QLD, 4000  
Tel: (07) 3558 1040  
Postal address: PO Box 12046, George Street, QLD, 4003