

NOTICE TO DEFENDANT

Service and Execution of Process Act 1992 - Form 1 [Section 16]

**PLEASE READ THIS NOTICE AND THE ATTACHED DOCUMENT
VERY CAREFULLY**

**IF YOU HAVE ANY TROUBLE UNDERSTANDING THEM YOU SHOULD GET
LEGAL ADVICE AS SOON AS POSSIBLE**

Attached to this notice is a Claim and Statement of Claim ("the attached process") issued out of the Supreme Court of Queensland at Brisbane.

Service of the attached process outside Queensland is authorised by the *Service and Execution of Process Act 1992*.

YOUR RIGHTS

If a court of a State or Territory other than Queensland is the appropriate court to determine the claim against you set out in the attached process, you may be able to apply to the Supreme Court of Queensland to have the proceeding transferred to another Supreme Court, or another superior court.

If you think the proceeding should be stayed or transferred you should get legal advice as soon as possible.

CONTESTING THIS CLAIM

If you want to contest this claim, you must take any action set out in the attached process as being necessary to contest the claim.

If you want to contest this claim, you must also file a Notice of Intention to Defend in the Supreme Court at Brisbane. You have only 28 days after receiving the attached process to do so.

The a Notice of Intention to Defend must contain an address in Australia where documents can be left for you or sent to you, and your address.

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE
NUMBER: BS 8659/09

Plaintiff: CLASUL PTY LTD ACN 010 173 029
and
Defendant: COMMONWEALTH OF AUSTRALIA

CLAIM

The Plaintiff claims:

1. Damages for negligence;
2. Interest on damages pursuant to s. 47 of the *Supreme Court Act 1995*; and
3. Costs.

The Plaintiff makes this claim in reliance on the facts alleged in the attached Statement of Claim.

ISSUED WITH THE AUTHORITY OF THE SUPREME COURT OF QUEENSLAND

And filed in the Brisbane Registry on: 11 AUG 2009

Registrar:



To the Defendant:

TAKE NOTICE that you are being sued by the Plaintiff in the Court. If you intend to dispute this claim or wish to raise any counterclaim against the Plaintiff, you must within 28 days of the service upon you of this claim file a Notice of Intention to Defend in this Registry. If you do not comply with this requirement judgment may be given against you for the relief claimed and costs without further notice to you. The notice should be in Form 6 to the Uniform Civil Procedure Rules. You must serve a sealed copy of it at the Plaintiff's address for service shown in this claim as soon as possible.



Form 22
Filed on behalf of the Plaintiff

Attwood Marshall Lawyers
Suite 1 Level 2 Showcase on the Beach
Cnr Marine Parade & Warner Street
Queensland 4225
Tel: 07 5536 9777
Fax: 07 5536 9755
Ref: (16)20080806:JLG

Address of Registry: Law Courts Complex, 304 George Street, Brisbane

If you assert that this Court does not have jurisdiction in this matter or assert any irregularity you must file a Conditional Notice of Intention to Defend in Form 7 under Rule 144, and apply for an order under Rule 16 within 14 days of filing that notice.

If you object that these proceedings have not been commenced in the correct district of the Court, that objection must be included in your Notice of Intention to Defend.

PARTICULARS OF THE PLAINTIFF

Name:	Clasul Pty Ltd ACN 010 173 029
Residential or business address:	Nobby Qld 4360
Plaintiff's solicitor's name:	Jeff Garrett
and firm name:	Attwood Marshall Lawyers
Solicitor's business address:	Attwood Marshall Lawyers Suite 1 Level 2 Showcase on the Beach Cnr Marine Parade & Warner Street Queensland 4225

Address for service:	As above
Telephone:	(07) 5506 8215
Fax:	(07) 5536 9755
E-mail address:	jgarrett@attwoodmarshall.com.au

Signed:

Description: Solicitor for the Plaintiff

Dated: 10 August 2009

This claim is to be served on:
of:

COMMONWEALTH OF AUSTRALIA
c/- Blake Dawson,
Level 36, Grosvenor Place
225 George Street
Sydney NSW 2000



SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: S of 2009

Plaintiff: CLASUL PTY LTD ACN 010 173 029
AND
Defendant: COMMONWEATH OF AUSTRALIA

Filed in the Brisbane Registry on 11 AUG 2009.

STATEMENT OF CLAIM

This claim in this proceeding is made in reliance on the following facts:

1. At all material times:
 - 1.1 The defendant was an entity capable of being sued;
 - 1.2 The defendant was empowered exclusively by reason of ss51(ix) and 52(ii) of the Commonwealth of Australia Constitution to make laws for the peace, order and good government of the Commonwealth with respect to quarantine;
 - 1.3 The defendant appointed from time to time, the Minister for Agriculture, Fisheries and Forestry ("the Minister"), to be responsible for the supervision and exercise of the defendant's obligations and powers under the *Quarantine Act 1908 (Cth)*("the Act");
 - 1.4 By declaration in writing, the Minister delegated his powers under the Act to design, implement and enforce a system of quarantine in accordance with the Act to the Director of Quarantine;
 - 1.5 The development, maintenance and implementation of the defendant's quarantine policy relating to the importation and quarantine of horses was delegated to the Australian Quarantine and Inspection Service ("AQIS") and Biosecurity Australia ("Biosecurity");
 - 1.6 AQIS and Biosecurity were under the supervision and control of the Minister and the Director of Quarantine;
 - 1.7 AQIS and Biosecurity were empowered by the Act to take measures to prevent or control the introduction, establishment or spread of disease that could cause significant damage to Australian animals including horses;



Statement of Claim
Filed on behalf of the Plaintiff
Form 16 - R.22, 146

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- 1.8 From 1 June 2001 the defendant was the lessee of premises situated at Wallgrove Rd, Eastern Creek known as the Eastern Creek Quarantine Station ("ECQS") from which premises the defendant permitted a quarantine facility to be conducted by AQIS ("the premises");
- 1.9 The defendant was the occupier of the premises and had the care, control and occupation of the premises and was aware that there was a significant risk that equine influenza or other exotic disease may be brought onto the premises and escape therefrom by reason of the operation of the quarantine facility;
- 1.10 The Director of Quarantine operated a quarantine facility at Sydney Airport and ECQS in accordance with and by authority of the powers established in the Act;
- 1.11 The plaintiff owned and operated Wattle Brae Stud, a thoroughbred horse breeding stud at Nobby in the State of Queensland, in its capacity as trustee for the Wattle Brae Stud Trust;
- 1.12 The plaintiff's activities on the stud included breeding horses, including the provision of stallions and mares to the public for service and associated agistment services;
- 1.13 Equine influenza is a highly contagious viral infection of horses and other equid species;
- 1.14 Phillip Widders, Jenni Gordon, Julie Simms, Graham Turner, Narelle Clegg and Kylie Lance were servants or agents of AQIS;
- 1.15 Robyn Martin was a servant or agent of Biosecurity.
2. On or about 17 April 2003, Robyn Martin received correspondence from a representative of the New Zealand Ministry for Agriculture and Fisheries, expressing concern about the possible introduction of equine influenza to New Zealand via Australia. The correspondence advised that equine influenza would have serious financial implications for persons and businesses engaged in the equine industry.
3. On or about 21 May 2004, Phillip Widders, the Chief Quarantine Officer (Animals) New South Wales and a representative of AQIS, advised regional officers in written correspondence that equine influenza was the main quarantine risk associated with imports of horses from the northern hemisphere and that the procedures associated with clearance of imported horses at Sydney Airport, if uncontrolled, represented a real risk for dissemination of equine influenza.
4. On 6 June 2004, Jenni Gordon, a senior manager in the AQIS Animal and Plant Program, became aware of the views expressed by Phillip Widders referred to in the preceding paragraph.



5. In or about October 2004, the issues raised by Phillip Widders in the correspondence of 21 May 2004 were discussed at a meeting attended by Julie Simms and Graham Turner (of the New South Wales regional office of AQIS) and Kylie Lance and Narelle Clegg (of the AQIS National Program).
6. In or about September 2004, the Minister received correspondence from Andrew Ramsden, Chairman of the Australian Racing Board Limited, advising:
- 6.1 That if equine influenza gained entry into Australia, it would close down racing and other horse events for several months with catastrophic economic consequences; and
- 6.2 That a quarantine breakdown was the only way Australia would be exposed to equine influenza.
7. On or about 6 May 2005, the Minister received further correspondence from Andrew Ramsden, Chairman of the Australian Racing Board Limited, advising:
- 7.1 That since January of 2005, AQIS' veterinary officers no longer had any direct involvement in the quarantine clearance of horses at Tullamarine Airport, and
- 7.2 Repeated his warning about the consequences of equine influenza for racehorse owners and breeders.
8. In or about May 2005, Narelle Clegg, a representative of AQIS, advised the Minister:
- 8.1 The circumstances that led to the outbreak of equine influenza in South Africa in 2003 could not occur under the current AQIS post-arrival protocol;
- 8.2 The South African outbreak was caused by a lack of quarantine processes including inadequate vaccine pre-export, lack of isolation from potentially infected horses in pre-export preparation, lack of appropriate isolation in post-arrival quarantine, early movement of horses (three days post-arrival), movement of personnel, equipment and vehicles without decontamination and lack of security, training and documented procedures;
- 8.3 That all of the recommendations of the report of the investigation into the outbreak of equine influenza in South Africa were standard procedures in Australian quarantine post-arrival protocol.
9. By reason of the matters pleaded in paragraphs 2 to 8, the defendant, the Minister, the Director of Quarantine, AQIS and Biosecurity knew, prior to August 2007:
- 9.1 That equine influenza was a highly contagious disease;
- 9.2 That the importing of horses from the northern hemisphere posed a significant risk of the entry of equine influenza into Australia;



- 9.3 That recent outbreaks of equine influenza had occurred in South Africa by reason of lack of strict quarantine protocol;
- 9.4 That contributing factors to the South African outbreak included the lack of appropriate isolation in post-arrival quarantine, early movement of horses, movement of personnel, equipment and vehicles without decontamination and lack of security, training and documented procedures for the movement and clearance of live horses from quarantine;
- 9.5 That should equine influenza enter Australia through ECQS, the failure to design, implement, maintain and enforce a strict regime of clearance and post-arrival quarantine led to a high risk that equine influenza may escape into the general equine community throughout Australia;
- 9.6 That should equine influenza escape quarantine and infect the general equine population throughout Australia, that individuals and businesses within the equine population, including the plaintiff's stud, were at a risk of suffering substantial financial loss.
10. The defendant, as the entity responsible for quarantine in Australia, owed the class of persons of which the plaintiff was a member a duty to take reasonable care:
- 10.1 In designing, maintaining and enforcing a proper and adequate system of isolation of horses imported into Australia to prevent the risk of diseases being carried from those horses escaping into the general horse population;
- 10.2 In designing, maintaining and enforcing an adequate regime of cleaning and/or disinfecting and/or decontaminating people, clothing, equipment and vehicles leaving quarantine facilities housing horses imported from outside Australia, including ECQS;
- 10.3 To ensure that proper and adequate systems of training and instruction were in place to ensure that staff at quarantine facilities including ECQS were operating under current, approved and documented work instructions pertaining to biosecurity measures;
- 10.4 To ensure that staff performing quarantine functions and duties were properly and adequately trained and instructed as to appropriate biosecurity measures including those referred to in paragraph 10.2 herein.
11. Further, and/or in the alternative, the defendant, in delegating the powers to be exercised by the Minister, the Director of Quarantine, AQIS and Biosecurity, owed, and the Minister, the Director of Quarantine, AQIS and Biosecurity owed, to members of the class of persons to which the plaintiff belonged, a duty to take reasonable care:



- 11.1 In the exercise of its powers under the Act to ensure that an appropriate and proper system of quarantine for the import and clearance of horses was designed, implemented, maintained and enforced;
- 11.2 To ensure AQIS staff acting in the performance of their duties under and incidental to the Act were properly and adequately trained in biosecurity measures relating to the cleaning of people and disinfecting and/or decontamination of people's clothing and equipment, including vehicles, on leaving the ECQS;
- 11.3 To ensure AQIS staff responsible for the implementation of biosecurity measures relating to the cleaning of people and disinfecting and/or decontamination of clothing and equipment, including vehicles, on leaving the ECQS were properly and adequately instructed in the measures to be applied for the same at the ECQS;
- 11.4 To provide staff of AQIS at the ECQS with adequate instructions to minimise the risk of the escape of exotic animal illnesses from intakes of foreign horses residing in quarantine at the ECQS;
- 11.5 To inform and/or advise AQIS staff at the ECQS where current and up to date work instructions could be located to enable such staff to implement proper and adequate biosecurity measures in relation to people or equipment leaving the ECQS after exposure to foreign animals under quarantine.
12. Further, and in the alternative, the defendant, as occupier of the premises owed to the plaintiff a duty to take reasonable care to:
- 12.1 Ensure that activities at the premises, including the housing of imported horses, did not pose an unnecessary or unreasonable risk of exposing the Australian horse population to disease;
- 12.2 Ensure contagious diseases, including the equine influenza virus, were not allowed to escape from the premises;
- 12.3 Ensure adequate measures were implemented and enforced by the operators of the quarantine facility at the premises so that people, clothing, equipment and vehicles leaving the premises had been adequately cleaned, disinfected or decontaminated;
- 12.4 Not allow the premises to be used for the housing of imported horses in circumstances where the risk of allowing a contagious disease to escape from the premises had not been minimised.
13. Prior to 10 August 2007:
- 13.1 There had been no audit or inspection by AQIS or Biosecurity Australia officials of procedures or work instructions for the live clearance and quarantine of horses since May 2005;



- 13.2 There was no established training regime for AQIS officials attending airports when horses arrived from abroad;
- 13.3 Nationally promulgated and documented work instructions for the quarantine of horses were not being implemented at ECQS and no audit had been carried out to determine whether the instructions were being implemented;
- 13.4 In February 2005, a draft Operations Manual for Horses was prepared, but not finalised and, as a consequence, there was no documented procedure or operations manual for the quarantine of horses;
- 13.5 The Manager and staff of the ECQS were unaware of any documented procedures they were required to follow in respect of the live animal imports and post-entry animal quarantine program for horses;
- 13.6 The New South Wales Regional Manager of AQIS was unaware of any work instruction for the clearance of live horses and failed to ensure that quarantine officers were aware of any such instruction and had access to it;
- 13.7 Representatives of the defendant, AQIS, Biosecurity Australia and the Director of Quarantine did not take any steps to ensure that a work instruction for the clearance of live horses was being implemented;
- 13.8 Basic quarantine procedures for grooms, farriers and vets including showering, changing of clothes, disinfecting of tools, washing of hands, boots and faces were not being undertaken by farriers, grooms and veterinarians attending ECQS at divers times between 10 and 18 August 2007;
- 13.9 No representative of the defendant, the Minister, the Director of Quarantine, AQIS or Biosecurity Australia had provided details or clear instructions to the farriers, vets and grooms entering and leaving the ECQS between 10 and 18 August 2007;
- 13.10 No representative of the defendant, the Minister, the Director of Quarantine, AQIS or Biosecurity Australia had enforced the various aspects of quarantine described to the farriers, vets and grooms entering and leaving the ECQS between 10 and 18 August 2007;
- 13.11 Quarantine officers appointed by the defendant, the Minister, the Director of Quarantine Services and AQIS had not been trained as to the appropriate work instruction for the clearance of live horses, and the procedures that were appropriate to ensure the objectives of quarantine or the steps that were required to be taken to enforce the relevant instruction and procedures through the monitoring and supervision of vets, farriers and grooms entering the ECQS.



In August 2007, four horses, being Rock of Gibraltar, Stravinsky, Snitzel and Grandera ("the Japanese Horses") were imported from Japan as shuttle stallions

by private persons and deposited at Sydney Airport where the defendant placed the horses in quarantine in accordance with its powers under the Act.

15. The Japanese horses were thereafter transported to the ECQS.
16. At least one of the Japanese horses described in the preceding paragraph had become infected with equine influenza at some stage unknown to the plaintiff prior to 13 August 2007.
17. Between 10 and 18 August 2007:
 - 17.1 The Japanese horses were quarantined and housed at ECQS in the same stalls and facilities as other intakes of imported horses from the USA and Europe;
 - 17.2 Equine influenza virus infected other horses at ECQS by reason of the shared housing and facilities described in the preceding paragraph;
 - 17.3 A number of grooms, farriers and veterinarians had contact with horses in ECQS that were shedding the equine influenza virus;
 - 17.4 The grooms, farriers and veterinarians were not required by the defendant to shower, change clothes, disinfect equipment and clothing, or otherwise take steps to prevent the escape of equine influenza on their personal clothing prior to their departure from ECQS;
 - 17.5 The defendant permitted the grooms, farriers and veterinarians to leave ECQS without showering, changing clothes, disinfecting equipment or otherwise taking steps to prevent the escape of equine influenza on their personal clothing or equipment prior to their departure from ECQS.
18. The terms and conditions of the entry to and exit from ECQS of each of the grooms, farriers and veterinarians were under the supervision and control of the defendant.
19. Between 10 and 18 August 2007, the equine influenza virus escaped from the ECQS on the person, clothing or equipment of one of the grooms, veterinarians or farriers who had contact with an infected horse and who then left ECQS without cleaning or disinfecting adequately or at all.
20. At the time of the escape of the virus, the defendant, the Minister, the Director of Quarantine, AQIS and Biosecurity had failed to take reasonable steps to establish a system of quarantine to control or prevent the introduction of, establishment or spread of equine influenza throughout Australia and thereby breached their duty of care to the plaintiff:

Particulars



- 20.1 Failing, between May 2005 and August 2007, to undertake any or any adequate audit or inspection by AQIS or Biosecurity Australia officials of procedures or work instructions for the live clearance and quarantine of horses;
- 20.2 Failing to establish an adequate training regime for AQIS officials attending airports when horses arrived from abroad;
- 20.3 Failing to ensure nationally promulgated and documented work instructions for the quarantine of horses were being implemented at ECQS or to ensure an audit had been carried out to determine whether the instructions were being implemented;
- 20.4 Failing between February 2005 and August 2007 to finalise the draft Operations Manual for horses to ensure that a documented procedure or operations manual existed in relation to the quarantine of horses;
- 20.5 Failing to ensure the Manager and staff of the ECQS were aware of any documented procedures they were required to follow in respect of the live animal imports and post-entry animal quarantine program for horses;
- 20.6 Failing to ensure the New South Wales Regional Manager of AQIS was aware of any work instruction for the clearance of live horses and failing to ensure that quarantine officers were aware of the instruction and had access to it;
- 20.7 Failing to ensure representatives of the defendant, AQIS, Biosecurity Australia and the Director of Quarantine took steps to ensure that the work instruction for the clearance of live horses (if any) was being implemented;
- 20.8 Failing to ensure basic quarantine procedures for grooms, farriers and vets including showering, changing of clothes, disinfecting of equipment, washing of hands, boots and faces were being undertaken by farriers, grooms and veterinarians at divers times between 10 and 18 August 2007;
- 20.9 Failing to ensure that a representative of the defendant, the Minister, the Director of Quarantine, AQIS or Biosecurity Australia provided details or clear instructions as to cleaning, showering and decontamination to the farriers, vets and grooms entering and leaving the ECQS between 10 and 18 August 2007;
- 20.10 Failing to ensure that a representative of the defendant, the Minister, the Director of Quarantine, AQIS or Biosecurity Australia enforced the various aspects of quarantine described in the preceding paragraph to the farriers, vets and grooms entering and leaving the ECQS between 10 and 18 August 2007;
- 20.11 Failing to ensure Quarantine officers appointed by the defendant, the Minister, the Director of Quarantine Services and AQIS had been trained as to the appropriate work instruction for the clearance of live horses, and



the procedures that were appropriate to ensure the objectives of quarantine or the steps that were required to be taken to enforce the relevant instruction and procedures through the monitoring and supervision of vets, farriers and grooms entering the ECQS.

21. Further, the escape of the virus from ECQS was caused and/or contributed to by the defendant's breach of its duty of care as occupier of the premises, by way of:

- 21.1 Failing to ensure an adequate regime or system of cleaning, disinfecting and decontaminating was in operation in respect of people, clothing, equipment and vehicles leaving the premises;
- 21.2 Failing to ensure the operators of the quarantine station being conducted at the premises were operating in accordance with a defined, documented and adequate plan and set of instructions in relation to the cleaning, disinfecting and decontaminating of people, clothing, equipment and vehicles leaving the premises;
- 21.3 Permitting or allowing the premises to house imported horses suffering from equine influenza in circumstances where there were not in place adequate measures and systems in relation to the cleaning, disinfecting and decontamination of people, clothing, equipment and vehicles leaving the premises;
- 21.4 Permitting or allowing the equine influenza virus to escape from the premises due to inadequate instructions to the operators of the quarantine station as to adequate measures of cleaning, disinfecting and decontamination of people, clothing, equipment and vehicles leaving the premises after contact with imported horses.
- 21.5 Failing to warn the plaintiff of the risk of equine influenza escaping from the premises to enable the plaintiff to obtain and use vaccines to prevent the onset in its horses of equine influenza;
- 21.6 Permitting or allowing the premises to be operated as a quarantine facility in circumstances where staff at the facility were not working under an adequate and documented series of biosecurity measures;
- 21.7 Permitting or allowing the premises to be operated as a quarantine facility without establishing that the facility was being operated in conformity with a current and adequate series of biosecurity measures.

22. Between 18 August 2007 and 26 August 2007, equine influenza spread rapidly amongst the equine population throughout Australia.

23. On 26 August 2007, the plaintiff was advised that all horse movement was banned from 11am on that day and that no horses were to enter or leave the plaintiff's stud.



24. By, on or about 25 September 2007 at least three horses on the stud were infected with equine influenza.
25. The spread of equine influenza on to the plaintiff's stud and the infection of the horses referred to in the preceding paragraph was caused or contributed to by the breach of duty referred to above.
26. Over the ensuing 14 days, almost all horses at the defendant's premises contracted equine influenza and required medical treatment.
27. On or about 2 November 2007, the quarantine of the defendant's premises was lifted by the Department of Primary Industries, Queensland, however restrictions of movement were limited.
28. In or about April 2008, the Department of Primary Industries in Queensland allowed unrestricted movement of the plaintiff's horses.
29. As a consequence of the outbreak of equine influenza caused by the negligence of the defendant and the infection of the plaintiff's horses, the plaintiff has suffered loss and damage in the sum of \$3,000,000.00, particularised as follows:

Particulars

- 29.1 Several of the plaintiff's stallions located at the stud in August 2007 who contracted the virus were unable to undertake services of mares and thereby service fees were lost:
- 29.1.1 Brave Hawk lost 19 service fees at \$2,500.00 or \$47,500.00;
- 29.1.2 Easy Rocking lost 5 service fees at the value of \$8,800.00 or \$44,000.00;
- 29.1.3 War Trace lost 61 service fees at the value of \$6,600.00 per service or \$402,600.00;
- 29.1.4 Taimazov lost 114 service fees at the value of \$11,000.00 per service fee or \$1,254,000.00.
- 29.2 Each of the animals that contracted equine influenza on the plaintiff's premises required veterinary treatment and medication. Full particulars of the costs associated with their treatment and medication will be provided;
- 29.3 Approximately two-thirds of all mares served at the plaintiff's property are on the property for at least 45 days and pay agistment fees. The average agistment charge per month is \$477.40. The plaintiff estimates that in the four month period between September 2007 and December 2007, the plaintiff lost agistment fees for 226 mares at \$477.40 for four months in the sum of \$431,569.60;



- 29.4 The inability of new stallions to undertake services reduced the capacity of the plaintiff to syndicate those stallions. The plaintiff is undertaking an assessment of the value of the loss of syndication and the loss of bookings;
- 29.5 Several horses and unborn foals died as a consequence of being infected with equine influenza, including the following, particulars of the value of which will be provided:
- 29.5.1 Bounding Again, a mare, died 3 October 2007 with a foal in utero;
- 29.5.2 Kenya foaled on 6 October 2007 and the foal died immediately after birth;
- 29.5.3 Clear Honey foaled 9 October 2007 and the foal was born dead;
- 29.5.4 Glitzy foaled on 10 October 2007 and the foal was born dead;
- 29.5.5 Brave Tattler foaled on 10 October 2007 and the foal was born dead;
- 29.5.6 Charski foaled on 10 October 2007 and the foal was born dead.

AND THE PLAINTIFF CLAIMS:

- (a) damages for negligence;
- (b) interest.
- (c) costs.

Signed: _____

Description: Solicitor for the plaintiff

This pleading was settled by Mr Couper QC, Mr Gerard Mullins and Mr Charrington of Counsel

NOTICE AS TO DEFENCE

Your Defence must be attached to your Notice of Intention to Defend.

