

Form 20 (version 1)  
UCPR 18.1 and 18.3

## NOTICE OF MOTION

### COURT DETAILS

Court	Supreme Court
Division	Equity Division
List	
Registry	Sydney
Case number	

### TITLE OF PROCEEDINGS

First plaintiff	<b>PATRICIA CLEARY</b>
Number of plaintiffs	4

First defendant	<b>RECY KYPRI</b>
Number of defendants	6

### FILING DETAILS

Person seeking orders	<b>Plaintiffs</b>
Filed in relation to	

Legal representative	Armando John Gardiman Turner Freeman Level 16, St James Centre 111 Elizabeth Street SYDNEY NSW 2000
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Legal representative reference	TLG:\M105760.097
Contact name and telephone	Terence Goldberg 02 8222 3333

### PERSON AFFECTED BY ORDERS SOUGHT

Defendants, Recy Kypri, Wendy Hemington, Chorel Maree Terelinck, Symn Waters, Norman Power and Enmore Spiritualist Church Incorporated

### HEARING DETAILS

This motion is listed at at Law Courts Building, Queens Square, 184 Phillip Street, Sydney NSW 2000.

## ORDERS SOUGHT

On 25 November 2009 at 10.00am the plaintiffs will move the Supreme Court of New South Wales, at Queens Square, Sydney, for the following *ex parte* interlocutory orders:

1. The plaintiffs have leave to file in Court today the following documents before the Honourable Justice Bergin, Chief Judge in Equity, namely:
  - (a) a notice of motion dated 25 November 2009;
  - (b) an affidavit of Terence Louis Goldberg sworn on 24 November 2009;
  - (c) Exhibit TLG1 to Mr Goldberg's affidavit;
  - (d) an affidavit of Terence Louis Goldberg sworn on 25 November 2009;
  - (e) an affidavit of the Reverend Patricia Cleary sworn on 24 November 2009;
  - (f) a summons commencing these proceedings;
  - (g) proposed short minutes of the orders to be made *ex parte* today.
2. The plaintiffs have leave to make the notice of motion referred to in paragraph 1(a) returnable before the Honourable Justice Bergin, Chief Judge in Equity, *instanter*.
3. The plaintiffs have leave to serve the summons filed today, the notice of motion filed today, the affidavit of Terence Louis Goldberg sworn on 24 November 2009 together with Exhibit TLG 1 to it, the affidavit of Terence Louis Goldberg sworn on 25 November 2009 and the affidavit of Patricia Cleary sworn on 24 November 2009 on short service on or before close of business on 25 November 2009 in the case of the first to fourth defendants and on or before 10:00am on 26 November 2009 in the case of the fifth defendant in the manner ordered below.
4. The plaintiffs have leave to make the notice of motion filed in Court today before the Honourable Justice Bergin, Chief Judge in Equity returnable for hearing before a Justice in the Equity Division at 10.00am on Tuesday, 1 December 2009.
5. Service of the summons commencing these proceedings, the notice of motion filed in Court today, the affidavit of Terence Louis Goldberg sworn 24 November 2009 and Exhibit TLG 1 to it, the affidavit of Terence Louis Goldberg sworn on 25 November 2009 and the affidavit of

Patricia Cleary sworn on 24 November 2009, together with a sealed copy of these orders, be effected under the Rules on each of the first, second, third and fourth defendants by serving one set of each those documents at the office of Pigott Stinson, Lawyers, at Level 3, 10 Barrack Street, Sydney on or before 6.00 pm on 25 November 2009.

6. The plaintiffs ensure that the fifth defendant Norman Power, is personally served with a sealed copy of each of the summons commencing these proceedings, the notice of motion filed in Court today, the affidavit of Terence Louis Goldberg sworn 24 November 2009 and Exhibit TLG 1 to it, the affidavit of Terence Louis Goldberg sworn on 25 November 2009 and the affidavit of Patricia Cleary sworn on 24 November 2009, together with a sealed copy of these orders, on or before 10:00am on 26 November 2009.
7. An order that the requirements of the Rules for effecting service of the Court process commencing these proceedings and any other Court process in the course of these proceedings on the sixth defendant, Enmore Spiritualist Church Inc (**the Church**), be and is hereby excused.
8. The plaintiffs have liberty to enter these orders in the Registry forthwith.

On 1 December 2009 at 10.00am the plaintiffs will move the Supreme Court of New South Wales, at Queens Square, Sydney, for the following *inter partes* interlocutory orders:

9. Each of the first, second, third, fourth and fifth defendants, by themselves, their servants and agents and licensees, be and are hereby restrained, until further order of the Court, from convening or otherwise purporting to convene or hold a Special General Meeting or indeed any other meeting of the financial members or non-financial members of the Enmore Spiritualist Church Inc (**the Church**), whether in accordance with the notice of the calling of such a Special General Meeting given on 14 November 2009 to all financial members of the Church or otherwise, and whether held at the Church premises at 2 London Street, Enmore, or otherwise.
10. Each of the first, second, third, fourth and fifth defendants, by themselves, their servants, agents and licensees, be and are hereby restrained, until further order of the Court, from entering upon the Church premises at 2 London Street, Enmore or from otherwise taking possession, custody or control of any of the Church property which is not presently in their possession or under their custody or control.

11. Each of the first, second, third, fourth and fifth defendants by themselves, their servants, agents and licensees, be and are hereby restrained, until further order of the Court, from issuing letters, notices, circulars to (including circular letters), or otherwise communicating with, any members of the Church in which the defendants make adverse allegations against, or raise any questions about the propriety of the conduct of:

- (a) the first plaintiff, Patricia Cleary, in respect of the performance of her role as the Church's Minister, or as its president, or as a member of its Committee or of the Church generally, or in respect of the conduct of the Church finances or alleged non-receipt by the Church of Church expenditure; or
- (b) any of the other plaintiffs in respect of their capacity as members of the Committee of the Church,

for the 2006, 2007 and 2008 financial years or for any other financial years.

12. The plaintiffs have leave to enter these orders in the Registry forthwith.

**SIGNATURE**

Signature



Name

Terence Louis Goldberg

Capacity

Solicitor for the plaintiffs by his partner

Date of signature

25 November 2009

**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

Law Courts Building  
Queens Square, 184 Phillip Street  
SYDNEY NSW 2000

Postal address

As above

Telephone