

NOTICE OF FILING AND HEARING

Filing and Hearing Details

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File Title:	SECRETARY, DEPARTMENT OF HEALTH, DISABILITY AND AGEING v AG THERAPEUTICS PTY LTD & ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



A handwritten signature in blue ink that reads "Sia Lagos".

Registrar

Important Information

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 date of the filing of the document is determined pursuant to the Court's Rules.



Originating application

No. of 20

Federal Court of Australia
District Registry: New South Wales
Division: General

SECRETARY, DEPARTMENT OF HEALTH, DISABILITY AND AGEING
Applicant

AG THERAPEUTICS PTY LTD (and others)
Respondents

To the Respondents

The Applicant applies 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:

The Court ordered that the time for serving this application be abridged to.

Date:

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

Filed on behalf of (name & role of party)	Secretary of the Department of Health, Disability and Ageing, Applicant		
Prepared by (name of person/lawyer)	Matthew Garey, AGS lawyer within the meaning of s 55I of the <i>Judiciary Act 1903</i>		
Law firm (if applicable)	Australian Government Solicitor		
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Address for service	Australian Government Solicitor		
(include state and postcode)	Level 10, 60 Martin Place, Sydney NSW 2000		



Details of claim

This application is made under ss 19, 21 and 43 of the *Federal Court of Australia Act 1976* (Cth) (**Federal Court Act**), and s 42Y of the *Therapeutic Goods Act 1989* (Cth) (**Therapeutic Goods Act**).

The Court's jurisdiction to hear the application and grant the relief is found in s 42Y of the *Therapeutic Goods Act*, and ss 19, 21 and 43 of the *Federal Court Act*.

On the grounds stated in the Concise Statement, the Applicant claims:

Declarations

Declarations in relation to News Life

1. A declaration under s 21 of the *Federal Court Act* that the Third Respondent, News Life Media Pty Ltd (**News Life**), contravened s 42DLB(1) of the *Therapeutic Goods Act* by advertising or causing to be advertised medicinal cannabis by way of an article on the Body + Soul website entitled "*5 health conditions you didn't know medical cannabis could help with*" (**Body + Soul article**) during the period from 12 August 2022 to 19 September 2023, in circumstances where:
 - a. the Body + Soul article contained representations regarding the treatment of mental illness (anxiety, depression and PTSD) and neoplastic disease (cancer), being representations specified under reg 6B(1)(a) of the *Therapeutic Goods Regulations 1990* (Cth) (**TG Regulations**), and were therefore prohibited representations within the meaning of s 42DJ(1) of the *Therapeutic Goods Act*. No permissions were in force in relation to them under s 42DK, such that s 42DLB(2)(a) applied;
 - b. the Body + Soul article contained representations referring to:
 - i. chronic pain;
 - ii. endometriosis;
 - iii. arthritis;
 - iv. fibromyalgia;
 - v. psoriasis;
 - vi. eczema;
 - vii. dermatitis;
 - viii. seizures;
 - ix. autism;



each being a form of a disease, condition, ailment or defect designated by reason of s 28 of the *Therapeutic Goods (Therapeutic Goods Advertising Code) Instrument 2021* (Cth) (the **Code**) as a serious form of a disease, condition, ailment or defect, and therefore contained restricted representations within the meaning of s 42DD of the Therapeutic Goods Act. No approvals were in force in relation to them under s 42DF, or permission under s 42DK, such that s 42DLB(4)(a) applied; and

- c. the Body + Soul article referred to goods, being medicinal cannabis products that contained substances included in Schedules 8 or 4 to the applicable Poisons Standard made pursuant to s 52D(2)(b) of the Therapeutic Goods Act in force during the relevant period, being the period during which the Body + Soul article was displayed online (**Poisons Standard**), but not included in Appendix H of the Poisons Standard or authorised or required by a government or government authority, such that s 42DLB(7) of the Therapeutic Goods Act applied.
2. A declaration under s 21 of the Federal Court Act that News Life contravened s 42DMA(1) of the Therapeutic Goods Act by advertising or causing medicinal cannabis to be advertised by way of the Body + Soul article during the period from 12 August 2022 to 19 September 2023 in circumstances where the Body + Soul article contained an endorsement about medicinal cannabis given by a person who was a current health practitioner and who represented herself as being qualified or trained to diagnose, treat and prevent disease, ailment, defect or injury in persons, such that the advertisement did not comply with ss 24(6)(d) and 24(6)(e) of the Code, respectively.

Declarations in relation to Mamamia

3. A declaration under s 21 of the Federal Court Act that the Second Respondent, Mamamia.com.au Pty Ltd (**Mamamia**), contravened s 42DLB(1) of the Therapeutic Goods Act by advertising or causing to be advertised medicinal cannabis by way of an article on the Mamamia website entitled [REDACTED] *takes CBD oil daily for her anxiety. Here's what she wants people to know*" (**Mamamia article**) and on its Facebook page (**Mamamia Facebook post**) during the period from 9 September 2022 to 9 February 2023, in circumstances where:
 - a. the Mamamia article and the Mamamia Facebook post contained representations regarding the treatment of mental illness (anxiety), being representations specified under reg 6B(1)(a) of the TG Regulations, and were therefore prohibited representations within the meaning of s 42DJ(1) of the Therapeutic Goods Act. No permissions were in force in relation to them under s 42DK, such that s 42DLB(2)(a) applied; and



- b. the Mamamia article referred to goods, being medicinal cannabis products that contained substances included in Schedules 8 or 4 to the Poisons Standard, but not included in Appendix H of the Poisons Standard or authorised or required by a government or government authority, such that s 42DLB(7) of the Therapeutic Goods Act applied.
- 4. A declaration under s 21 of the Federal Court Act that Mamamia contravened s 42DMA(1) of the Therapeutic Goods Act by advertising or causing medicinal cannabis to be advertised by way of the Mamamia article during the period from 9 September 2022 to 9 February 2023 in circumstances where:
 - a. the Mamamia article contained a testimonial about medicinal cannabis given by a person mentioned in s 24(6)(d) of the Code, being a current or former health practitioner or health professional, such that the advertisement did not comply with s 24(4)(c) of the Code; and
 - b. the Mamamia article contained a testimonial about medicinal cannabis given by the immediate family member of a 'relevant person' under s 24(4)(a) of the Code, and did not disclose that relationship, such that the advertisement did not comply with s 24(4)(b) of the Code.

Declarations in relation to Atlus

- 5. A declaration under s 21 of the Federal Court Act that the First Respondent, AG Therapeutics Pty Ltd (trading as **Atlus**), contravened s 42DLB(1) of the Therapeutic Goods Act by advertising or causing to be advertised medicinal cannabis on its website, at <https://atlus.com.au>, and on its Facebook and Instagram pages, during the period from 14 November 2022 to 18 August 2023, in circumstances where:
 - a. the advertisements contained representations regarding the treatment of mental illness (anxiety, depression and PTSD) and neoplastic disease (cancer), being representations specified under reg 6B(1)(a) of the TG Regulations, and were therefore prohibited representations within the meaning of s 42DJ(1) of the Therapeutic Goods Act. No permissions were in force in relation to them under s 42DK, such that s 42DLB(2)(a) applied;
 - b. the advertisements contained representations referring to
 - i. epilepsy;
 - ii. seizures;
 - iii. chronic pain;
 - iv. endometriosis;



- v. infertility;
- vi. ADHD;
- vii. gastroesophageal reflux disease;
- viii. inflammatory bowel disease;
- ix. multiple sclerosis;
- x. lupus;
- xi. chronic obstructive pulmonary disease;
- xii. cystic fibrosis;
- xiii. Sjogren's syndrome;
- xiv. scleroderma;
- xv. polycystic ovarian syndrome;
- xvi. Graves' disease;
- xvii. restless leg syndrome;
- xviii. fibromyalgia;
- xix. rheumatoid arthritis;
- xx. Parkinson's disease;
- xxi. arthritis;

each being a form of a disease, condition, ailment or defect designated by reason of s 28 of the Code as a serious form of a disease, condition, ailment or defect, and therefore contained restricted representations within the meaning of s 42DD of the Therapeutic Goods Act. No approvals were in force in relation to them under s 42DF, or permission under s 42DK, such that s 42DLB(4)(a) applied; and

- c. the advertisements referred to goods, being medicinal cannabis products that contained substances included in Schedules 8 or 4 to the Poisons Standard, but not included in Appendix H of the Poisons Standard or authorised or required by a government or government authority, such that s 42DLB(7) of the Therapeutic Goods Act applied.

- 6. A declaration under s 21 of the Federal Court Act that, in relation to the Body + Soul article:
 - a. in the circumstances set out at paragraph 1 above, Atlus contravened s 42DLB(1) of the Therapeutic Goods Act because ss 42DLB(2)(a), (4)(a) and (7) applied; and



- b. in the circumstances set out at paragraph 2 above, Atlus contravened s 42DMA(1) of the Therapeutic Goods Act.
- 7. A declaration under s 21 of the Federal Court Act that, in relation to the Mamamia article and the Mamamia Facebook post:
 - a. in the circumstances set out at paragraph 3 above, Atlus contravened s 42DLB(1) of the Therapeutic Goods Act because ss 42DLB(2)(a) and (7) applied; and
 - b. in the circumstances set out at paragraph 4 above, Atlus contravened s 42DMA(1) of the Therapeutic Goods Act.

Declarations in relation to Straight Up

- 8. A declaration under s 21 of the Federal Court Act that, in relation to the Body + Soul article:
 - a. in the circumstances set out at paragraph 1 above, the Fourth Respondent, Straight Up PR Pty Ltd (**Straight Up**), contravened s 42DLB(1) of the Therapeutic Goods Act because ss 42DLB(2)(a), (4)(a) and (7) applied; and
 - b. in the circumstances set out at paragraph 2 above, Straight Up contravened s 42DMA(1) of the Therapeutic Goods Act.
- 9. A declaration under s 21 of the Federal Court Act that, in relation to the Mamamia article and the Mamamia Facebook post:
 - a. in the circumstances set out at paragraph 3 above, Straight Up contravened s 42DLB(1) of the Therapeutic Goods Act because ss 42DLB(2)(a) and (7) applied; and
 - b. in the circumstances set out at paragraph 4 above, Straight Up contravened s 42DMA(1) of the Therapeutic Goods Act.

Declarations in relation to Dr Shimal Jobanputra

- 10. A declaration under s 21 of the Federal Court Act that the Fifth Respondent, Dr Shimal Jobanputra, contravened s 42YC(1) of the Therapeutic Goods Act because he aided, abetted, counselled or procured News Life's contraventions of:
 - a. s 42DLB(1) of the Therapeutic Goods Act because ss 42DLB(2)(a), (4)(a) and (7) applied, in the circumstances set out above at paragraph 1; and
 - b. s 42DMA(1) of the Therapeutic Goods Act, in the circumstances set out above at paragraph 2.



11. A declaration under s 21 of the Federal Court Act that Dr Shimal Jobanputra contravened s 42YC(1) of the Therapeutic Goods Act because he aided, abetted, counselled or procured Mamamia's contraventions of:

- a. s 42DLB(1) of the Therapeutic Goods Act because ss 42DLB(2)(a) and (7) applied, in the circumstances set out above at paragraph 3; and
- b. s 42DMA(1) of the Therapeutic Goods Act, in the circumstances set out above at paragraph 4.

Pecuniary penalties (s 42Y of the Therapeutic Goods Act)

12. Orders pursuant to s 42Y of the Therapeutic Goods Act that, within 30 days of the date of the order, each of the Respondents pay to the Commonwealth of Australia such pecuniary penalties as the Court determines appropriate in respect of the contraventions of ss 42DLB(1), 42DMA(1) and 42YC(1) Act referred to in paragraphs 1 to 11 above.

Other orders

- 13. An order that the Respondents pay the Applicant's costs of and incidental to these proceedings.
- 14. Such further order or orders as the Court sees fit.

Applicant's address

The Applicant's address for service is:

Place: Australian Government Solicitor

Level 10, 60 Martin Place

Sydney NSW 2000

Email: matthew.garey@ags.gov.au

Service on the Respondent

It is intended to serve this application on all Respondents.



Date: 19 June 2025

A handwritten signature in blue ink, appearing to read "Matthew Garey", is written over a horizontal dotted line.

Signed by Matthew Garey
AGS lawyer within the meaning of s 55I of the
Judiciary Act 1903

**Schedule**

No. of 20

Federal Court of Australia
District Registry: New South Wales
Division: General

Respondents

First Respondent:	AG Therapeutics Pty Ltd
Second Respondent:	Mamamia.com.au Pty Ltd
Third Respondent:	News Life Media Pty Ltd
Fourth Respondent:	Straight Up PR Pty Ltd
Fifth Respondent:	Dr Shimal Jobanputra

Date: 19 June 2025