

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 22/09/2021 9:31:29 AM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged: Originating Application - Form 15 - Rule 8.01(1)
File Number: VID540/2021
File Title: SECRETARY OF THE DEPARTMENT OF HEALTH v ENVIRO TECH HOLDINGS PTY LTD & ORS
Registry: VICTORIA 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 Lagoz".

Dated: 22/09/2021 11:21:28 AM AEST

Registrar

Important Information

As required by the Court's Rules, 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 Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Form 15

Rules 8.01(1), 8.04(1)

ORIGINATING APPLICATION

**FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: VICTORIA
DIVISION: GENERAL**

NO VID OF 2021

SECRETARY OF THE DEPARTMENT OF HEALTH

Applicant

ENVIRO TECH HOLDINGS PTY LTD

and others named in the Schedule
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:

Federal Court of Australia.

Owen Dixon Commonwealth Law Courts Building, 305
William Street

Melbourne VIC 3000

Date:

Filed on behalf of the Applicant, Secretary of the Department of Health

File ref: 21003697

Prepared by: Matthew Garey
AGS lawyer within the meaning of s 551 of the *Judiciary Act 1903*

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The Australian Government Solicitor,
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Signed by an officer acting with
the authority of the District Registrar

DETAILS OF CLAIM

On the grounds stated in the concise statement, the Applicant claims:

1. A declaration under s 21 of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**) that on or about 11 August 2020, the First Respondent contravened s 41MNC of the *Therapeutic Goods Act 1989* (Cth) (**TG Act**) by importing into Australia 500,000 disposable medical face masks (the **Devices**), in circumstances where:
 - 1.1. the Devices were medical devices within the meaning of the TG Act;
 - 1.2. the Devices were of a kind covered by the *Therapeutic Goods (Medical Devices – Face Masks and Other Articles) (COVID-19 Emergency) Exemption 2020* (Cth) (the **Exemption**), being an exemption in force under s 41GS of the TG Act;
 - 1.3. at all times between 22 March 2020 and 31 January 2021, the Exemption was subject to a condition in the following terms (the **Condition**):

the relevant kinds of medical devices must only be imported, exported, manufactured or supplied by a person under a contract between the person and the Australian Government Department of Health, or another agency of the Commonwealth acting on behalf of Australian Government Department of Health, for that purpose...
 - 1.4. the Devices were not imported under a contract between the Respondent and the Australian Government Department of Health, or another agency of the Commonwealth acting on behalf of the Australian Government Department of Health; and
 - 1.5. the importation of the Devices breached the Condition.
2. A declaration under s 21 of the FCA Act that on or about 11 August 2020, the Second Respondent contravened s 42YC of the TG Act by aiding, abetting counselling or procuring the First Respondent's contravention of s 41MNC referred to in paragraph 1 above.
3. A declaration under s 21 of the FCA Act that on or about 11 August 2020, the Third Respondent contravened s 42YC of the TG Act by aiding, abetting counselling or procuring the First Respondent's contravention of s 41MNC referred to in paragraph 1 above.
4. An order pursuant to s 42Y of the TG Act that the First Respondent pay to the Commonwealth of Australia such pecuniary penalty as the Court determines appropriate in respect of the contravention of s 41MNC of the TG Act referred to in paragraph 1 above.
5. An order pursuant to s 42Y of the TG Act that the Second Respondent pay to the Commonwealth of Australia such pecuniary penalty as the Court determines



appropriate in respect of the contravention of s 42YC of the TG Act referred to in paragraph 2 above.

6. An order pursuant to s 42Y of the TG Act that the Third Respondent pay to the Commonwealth of Australia such pecuniary penalty as the Court determines appropriate in respect of the contravention of s 42YC of the TG Act referred to in paragraph 3 above.
7. An order pursuant to s 42YN of the TG Act and s 23 of the FCA Act that the First Respondent be restrained from importing, exporting, supplying or manufacturing medical devices which are not included on the Australian Register of Therapeutic Goods or otherwise subject to a relevant exemption, approval or authority under the TG Act.
8. An order pursuant to s 42YN of the TG Act and s 23 of the FCA Act that the Second Respondent, by herself, her servants, agents, employees and any company of which she is an officer, be restrained from importing, exporting, supplying or manufacturing medical devices which are not included on the Australian Register of Therapeutic Goods or otherwise subject to a relevant exemption, approval or authority under the TG Act.
9. An order pursuant to s 42YN of the TG Act and s 23 of the FCA Act that the Third Respondent, by himself, his servants, agents, employees and any company of which he is an officer, be restrained from importing, exporting, supplying or manufacturing medical devices which are not included on the Australian Register of Therapeutic Goods or otherwise subject to a relevant exemption, approval or authority under the TG Act.
10. An order pursuant to s 43 of the FCA Act that the Respondents pay the Applicant's costs of and incidental to these proceedings.
11. Such further order or orders as the Court sees fit.

APPLICANT'S ADDRESS

The Applicant's address for service is:

Australian Government Solicitor,
Level 42, 25 Martin Place, Sydney, NSW 2000

Email: Matthew.Garey@ags.gov.au

The Australian Government Solicitor's telephone, facsimile, and document exchange numbers are:

Tel: 02 9581 7625

Fax: 02 9581 7413

The Applicant's address is:

PO Box 100



Woden ACT 2606

SERVICE ON THE RESPONDENTS

It is intended to serve this application on all Respondents.

Date: 22 September 2021

A handwritten signature in blue ink, appearing to read "M. Garey".

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Matthew Garey
AGS lawyer
for and on behalf of the Australian Government Solicitor
Lawyer for the Applicant



Schedule

FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: VICTORIA
Division: General

No VID of 2021

Respondents

| | |
|-------------------|-----------------|
| Second Respondent | Connie Triantos |
| Third Respondent | Jerry Triantos |

Date: 22 September 2021