CITATION:	*Kevin Richter v RMG Project Management Pty Ltd* [2019] NTLC037
PARTIES:	KEVIN RICHTER v RMG PROJECT MANAGEMENT PTY LTD
TITLE OF COURT:	Work Health Court
JURISDICTION:	Work Health
FILE NO(s):	21922612
DELIVERED ON:	31 December 2019
DELIVERED AT:	Darwin
HEARING DATE(s):	22 November 2019
JUDGMENT OF:	Judicial Registrar Gordon

CATCHWORDS:

Section 14 Work Health Administration Act 2011 – Counterclaims in the Work Health Court - Form of Pleadings – Early Discovery.

REPRESENTATION:

Counsel:

Worker:	Michael Gove
Employer:	Wade Roper

Solicitors:

Worker:	Ward Keller
Employer:	Sparke Helmore

Judgment category classification:	B
Judgment ID number:	037
Number of paragraphs:	72

IN THE WORK HEALTH COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. 21922612

BETWEEN:

KEVIN RICHTER
Worker

AND:

RMG PROJECT MANAGEMENT PTY LIMITED
Employer

DECISION OF L GORDON JR

(Delivered 31 December 2019)

1. The substantive application before the Court concerns a Worker who suffered a significant left arm injury on 30 April 2016, liability for which was accepted by the Employer. The mechanisms of the injury, subsequent treatment and current medical options do not bear greatly on the interlocutory applications before the Court, accordingly I do not propose to set them out in detail.

2. Save to say that compensation payments to the worker were subsequently ceased by the Employer by a Notice of Decision dated 7 December 2018, resulting in the proceedings currently before the Court.

3. The Employer has two interlocutory applications before the Court;

    a. An application for leave to file and serve an amended Notice of Defence and counterclaim filed 22 October 2019; and

b. An application for the Worker to make discovery of certain financial documents.

4. The Worker opposed both applications and submissions were made by the parties on 22 November 2019.

APPLICATION TO FILE AMENDED PLEADINGS

5. The Employer seeks that leave be granted to file amended pleadings and relies upon the decision in *Wickham Point Development Pty Ltd v Commonwealth of Australia*[1] in support of their application.

6. The amendments to the pleadings and particulars as attached to the Employers application are reasonably significant and I do not intend to repeat them in full. Further, I note the Workers objections pertain more generally to the rules and form of pleadings, rather than the specific content proposed by the Employers draft.

7. The employer contends that it's application meets the criteria espoused by Associate Judge Luppino in *Wickham Point* at para 3 (references omitted):

> "*…Subject to case management requirements and the public interest in finalising litigation promptly utilising the Courts resources, in general Courts liberally allow amendments to pleadings provided that the application is made in good faith, any prejudice to the other party can be adequately addressed with an Order for costs and the amendment is not futile. Namely that the amended pleading would not be liable to be struck out.*"

8. The Employer submits that the proceedings are not at a stage where case management considerations weigh heavily. The claim, having been commenced by way of application to the Work Health Court in June 2019, does not yet have dates for hearing and other procedural matters, such as discovery, are still being undertaken.

9. The Employer submits that Part 9 Division 3 of the *Work Health Rules* provide clearly for the filing of a counterclaim and that the weight of case law[2] permits the Employer to broaden the issues to be determined by the Court, within the context of the 'mere

[1] [2019] NTSC 7
[2] *Disability Services of Central Australia v Regan* 8 NTLR 73; and *Ju Ju Nominees Pty Ltd v Carmichael* 9 NTLR 1

appeal' currently on foot. The amendments should be considered good at law and leave be given to file same.

10. Indeed, the Worker concedes that there is no prejudice to the Worker should leave be given for the Employer to amend their pleadings but submits, they should be fully 'recast' and should not be accepted by the Court in their current draft.

11. The Worker's submissions outlining their opposition to the Employers proposed amended Notice of Defence were threefold:

    A. The Employer has no cause of action for the Court to hear and determine the proposed counterclaim due to section 14 of the *Work Health Administration Act 2011 (*'the Work Health Administration Act'), rendering the amendments futile;

    B. The amended pleadings fail to meet the standards recommended in *Work Social Club — Katherine Inc v Rozycki*[3]*;* and

    C. The employer is not entitled to plead a claim that the Worker was not a Worker as defined by the *Return to Work Act 1986 (*'The Act') in their defence to a mere appeal – such a contention should be constrained to a counterclaim.

The operation of the *Work Health Administration Act 2011*

12. The Worker makes a somewhat novel submission that a strict interpretation of the language of section 14 of the Work Health Administration Act renders the Court in a position where it cannot 'hear and determine' a counterclaim as part of a claim commenced under Part 5 of the Act.

13. Although it is outside my power to 'strikeout' a counterclaim either pre-emptively or on application, I have considered the Workers arguments in this regard in the context of whether to disallow the proposed amended pleadings on the grounds of futility.

14. Section 14 of the Work Health Administration Act sets out the jurisdiction of the Work Health Court as follows (my emphasis added):

    "Jurisdiction of Court

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[3] (1998)143 FLR 224

The Court has the following jurisdiction:

(a) under the Return to Work Act 1986 , to ***hear and determine****:*

(i) claims for compensation under Part 5 of that Act; and

(ii) all other matters required or permitted by that Act to be referred to the Court for determination;

(b) under the Work Health and Safety (National Uniform Legislation) Act 2011 , to hear and determine:

(i) all applications made to the Court under that Act; and

(ii) all other matters required or permitted by that Act to be dealt with by the Court;

(c) ***to determine all matters and questions incidental to, or arising out of, matters before the Court****;*

(d) any other jurisdiction conferred on it under any Act."

15. The employer's counterclaims, the Worker submits, do not fall under section 14(a) as they are neither; (i) claims for compensation under Part 5; nor (ii) other matters required or permitted by the Act to be referred to the Court for determination – in this case by virtue of an application made pursuant to section 104 of the Act.

16. Thus leaving the current employers counterclaim to fall into the Jurisdiction of the Court conferred by s14(c): "*to determine all matters and questions incidental to, or arising out of, matters before the court."*

17. Crucially, the language adopted in s 14(c), in contrast to s 14(a) is to exclude the word *hear* in the phrase 'hear and determine' in s 14(c). Ergo, submits the Worker, the Court cannot *hear* evidence in relation to the matters being raised by the employer in their counterclaim and the employer must, should it wish to bring evidence on those issues (and it is nigh on impossible for the claims to be made out on the absence of evidence), commence proceedings pursuant to s104 of the Act to enliven the proper jurisdiction of the Court to 'hear and determine' the Employers claims.

18. Alternatively, the Employer should have issued the Notice of Decision and relied on the assertion that the Worker fails to meet the definition pf Worker under the Act therein.

19. The Employers resists the workers interpretation of the application of this legalisation and says it is overly restrictive.

20. The Employer notes that applications under section 104 of the Act are as follows:

> *(1) "A person may, subject to this Act, commence proceedings before the Court for the recovery of compensation under Part 5 or for an order or ruling in respect of a matter or question incidental to or arising out of a claim for compensation under that Part."*

21. The issue of the Worker's capacity, which forms the second part of the Employers proposed counterclaim can be seen to readily fit the definition of "*a matter or question incidental to or arising out of a claim for compensation under that Part*."

22. The situation is somewhat less clear in the first arm of the Employer's proposed counterclaim which alleges that the "*Worker was not a "worker" within the meaning of and for the purposes of the Act*".

23. The Worker provided the case of *Hopkins v QBE Insurance*[4] for guidance on what constitutes matters or questions incidental to or arising out of a claim for compensation. In particular I note at p16:

> "*The phrase "incidental to "can add something liable to happen or naturally appertaining to the claim for compensation*"; and
>
> "*As to "arising out of" Beaumont J. in <u>re Hamilton – Irvine and the Companies Act 1985</u> (1990) 94 ALR 428 at 432 refers to the cases in which the words have been held to import a relationship which has some causal element, even if not direct or proximate, in it*."

24. In this particular matter, where the application to the Court is by way of mere appeal following the issuing of a Form 5 Notice of Decision under s69 of the Act, where the

[4] *Hopkins v QBE Insurance Limited* unreported, SCNT, 22 May 1991, Martin J

Employer relied upon medical evidence only as the grounds for cancellation of benefits[5], the issue of the Worker meeting the definition under the Act has not previously been raised.

25. The Employer submitted that it has never been the practice of this court to restrict Employers in either proceedings under s 104 or in a counterclaim, to litigating only those matters raised by the Worker. The Employer notes that the Workers contention has the possibility of rendering all decisions on counterclaims heard and determined by the Court since 2011 bad.

26. The Employer further submitted that it defies logic that the a "Worker" is defined by s 3, but that an Employer would be precluded from arguing that a claimant fell outside the definition provided at law unless the issue was raised first by the Worker (an unlikely scenario for obvious reasons).

27. It seems to me, that the particular factual nexus of this case brings some reality to the possibility that the definition of Worker (having not previously been raised when the claim was initially accepted, nor in the subsequent Notice cancelling benefits) could arguably fall outside the scope of the matters or questions incidental to or arising out of *this* Workers claim for compensation.

28. I note the observations of Mildren J in *Disability Services*[6] (prior to the provisions for a counterclaim being added to the *Work Health Court Rules*):

> *"It is understandable that, in proceedings in the Work Health Court, the parties will usually wish to litigate all outstanding issues. An employer who has served a s69 notice, may subsequently decide after the employer has appealed, that the issues to be decided at the appeal are too narrowly confined. At present, if the employer is in this position, the employer can bring its own substantive application and apply to have its two applications heard together. It may simplify hearings procedurally and focus proper attention on who bears the onus of proof if the rules were amended to permit the employer to raise new issues by way of counterclaim."*

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[5] The Notice of Decision dated 17 December 2018 relies upon the final medical certificates issued by Dr Duke and Dr Cunneen dated 16 and 30 November respectively.

[6] Ibid at 2 at para 79

29. I further note the discussion in *Wickham Point*[7] as set out by Associate Judge Luppino:

> " *That approach was considered in the context of broader pleading rules by Mansford J in* BWK Elders Australia v Westgate Wool Company Pty Ltd & Ors (No 2): *His Honour said:*
>
> *The tendency in pleadings in recent years has been to address matters of substance rather than matters of form... The Courts focus has been upon ensuring the case is identified with clarity, so that the opposing party knows the case to be met... The focus on case management to ensure the efficient and fair conduct of proceedings, has also led to the emphasis on technical pleadings rules being diverted to an emphasis upon ensuring that, in substance, the objectives of pleadings… are fulfilled*"

30. It is clear, in my view that the Court has for a many number of years aimed to facilitate and streamline the litigation processes. The adaptation of a procedure for counterclaims and the relaxation of the strict rules of pleadings support this view. Although the Worker raises some technical matters of strict interpretation I am not minded to bear them much weight.

31. Nor, noting the words of Mildren J "*An employer who has served a s69 notice, may subsequently decide after the employer has appealed, that the issues to be decided at the appeal are too narrowly confined",* do I share the view that – should the Notice of Decision fail to disclose a possible cause of action supporting the Employers decision – the Employer is barred from raising an alternate cause in a subsequent counterclaim.

32. Section 69(4) of the Act provides:

> "*For the purposes of subsection 1(b), the reasons set out in the statement referred to in that section shall provide sufficient details to enable the Worker to whom the statement is being given to understand fully why the amount of compensation is being cancelled or reduced.*"

[7] Ibid at 1 para 16; Mansford J noting *Beach Petroleum NL v Johnson* [2002] FCA 87 at para 20

33. In *Dicken v NT TAB Pty Ltd*[8] Angel J (considering previous legislation, of the same effect as the current s69 of the Act) noted: "*If I may be pardoned for saying so, section 69(4) of the Work Health Act means what it says. A notice must unambiguously spell out why a current payment regime should change in clear terms that a lay reader can fully and readily understand.*"

34. It would be counterproductive, noting the need for clarity and ease of understanding, for an insurer to feel compelled to include in a Notice of Decision a range of possible justifications for cancelling benefits, which may or may not be applicable, simply to maintain their ability to rely upon multiple causes in the future.

35. The Workers submissions regarding the Work Health Administration Act are in the context of an argument as to why the proposed amendments should not be allowed as they are essentially futile, destined to fail and may well be the subject of a further interlocutory application to strikeout the counterclaim.

36. It is not for me to make any formal findings as to whether the counterclaim, if allowed will be struck out due to a strict interpretation of the Work Health Administration Act. It is a matter for the Worker, should they wish to pursue those arguments before a Judge, in an application to strikeout the Employers counterclaim.

37. Simply to say that on the grounds that a strict interpretation of the language of section 14 of the Work Health Administration Act renders the Court in a position where it cannot '*hear and* determine' the counterclaim, I am not minded to preclude the Employer from pressing both arms of its counterclaim on the grounds of futility.

Form of pleadings and application of *Work Social Club — Katherine Inc v Rozycki*

38. The Worker accepts that in the normal course of proceedings, where a Worker is appealing the validity of a Notice of Decision, should the Worker be unsuccessful in having the Notice set aside, then the Court will often be required to turn its mind to making a finding as to the degree of a Workers capacity, as a result of a counterclaim.

39. The counterclaim, the Worker contends, should be plead with a strict deference to s 65 of the Act, reflecting more closely the causes of action as set out in the legislation,

[8] [2003] NTSC 119 at 17

not dissimilar to the manner in which the elements of a criminal offence must be set out and proven individually. The Worker submits that the Employer has failed to use the terminology of the legislation, at times bundling issues for determination which are set out individually in legislation, together in the pleadings and that this impedes the Workers ability to respond to the counterclaim.

40. Noting first that the discussion on the form of pleadings in *Katherine Inc v Rozycki*[9], constitutes observations only and is not a binding direction on how practitioners should be drafting pleadings in the Work Health Court, it is nonetheless a forthright and compelling guide on the form of pleadings. I likewise accept the submission of the Worker that while this particular matter pertained to a claim arising out of a s 85 Notice, the observations have equal applicability to a Notice issued under s 69, as is the case in this matter.

41. Justice Mildren states (referencing prior legislation but discussion issues which are no less relevant under the *Return to Work Act* and the Judges of the Work Health Court today):

> "*The* Work Health Act *is an extremely complex piece of legislative drafting. In the Northern Territory magistrates are extremely busy, and neither have the time nor the resources to deal adequately with compensation claims unless given the utmost assistance by the legal profession... Because of the complexity of this jurisdiction, magistrates would best be assisted if counsel were to set out, preferably in written form, each of the elements which has to be proved, carefully addressing the facts and issues with respect to each of those elements in a clear and orderly fashion and addressing the language used by the Act."*

42. Justice Bailey concurs and provides:

> *"... I am in complete agreement with his Honour's general observations about the needs for magistrates presiding in the Work Health Court to address the relevant facts and legal issues in a clear and orderly fashion by reference to the concise language used by the [Act]. If magistrates adopt the guidance*

[9] (1998)143 FLR 224

offered by his honour, it would be of very real assistance in reducing the number and complexity of appeals arising under the Act."

43. The Employer accepts that the formulation as to how pleadings should be drafted, in line with the legislative causes, is not incorrect, but submits that the redrafted Notice of Defence and counterclaim adequately meet the functions provided for in *Dare v Pullam*[10], contending that the Employer's pleadings sufficiently put the Worker on notice as to the case to be argued before the Court at trial.

44. Ultimately, while I endorse the observations and recommendations made in *Katherine Inc v Rozycki* it is not a strict requirement for the elements to be set out a the manner analogous to a criminal offence. It may very well assist the Court and reduce the likelihood of confusion or appeal, but nonetheless where a pleading meets the tests as per the binding authorities (and I find that the Employer's draft pleadings largely do, save for below) it is thereafter a matter for each party how the wish to structure their compliant pleadings and how strictly they wish to reference the legislative components.

45. Finally, I note and agree with the submission on behalf of the Worker that the proposed amended counterclaim at 2 b) and c) particularises a number of positions that the Employer asserts the Worker is fit to perform – however does not detail the value which could be attributed to those options.

46. The Employer merely seeks to plead that they result in either a nil or partial loss of earning capacity when compared to the normal weekly earnings of $3,364.37 plead at 2 a).

47. I share the Workers concern that the implication in the relief sought at d) and e) of the counterclaim is that the Court is required to conduct the necessary calculations, should the employers claim be successful.

[10] 148 CLR 659

48. I have considered at length whether Orders for amended pleadings or further and better particulars should be made in relation to these matters. Master Luppino (as he then was) provides:[11]

> "*The degree of particularity depends on common sense and the circumstances of the case and accordingly there is some room for discretion in respect of an order for particulars as it is often a matter of judgment as to whether the appropriate level of particularity has been provided.*[12]

49. I take heed also, of the views of Martin CJ in *Barclay Mowlem Construction Ltd v Dampier Port Authority & Anor*[13]*;*

> *"... I would discourage the idea that particulars should be sought merely because they could be sought and I would discourage acceptance of the provision that particulars have to be provided merely because they can be provided.*
>
> *Particulars should be provided... where they are necessary to meet the fundamental objectives to which I have referred; that is to say, the enunciation of the issues that are to be tried and the identification of the case that has to be met."*

50. The Employer submits that the Worker is aware that earning capacity is being plead and that they as such are sufficiently on notice of the case to be met. As noted at 38 above, the Worker acknowledges that a counterclaim of this nature is not uncommon within a 'mere appeal'. It is not the case, in my view, that the lack of detail as to the value of the positions posited could enable the Employer to 'spring a new case' on the Worker- resulting in a denial of procedural fairness.

51. Finally I am mindful that there is no obligation on the Employee to give particulars of evidence that will be a matter for trial. I am satisfied that the presentation of evidence in this regard will likewise assuage my concerns referred at 47 above.

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[11] *Pleadings*, Master Luppino, Law Society NT CPD Programme, October 2012

[12] *RTA Pty Lty & Ors v Brinko Pty Ltd & Ors* [2012] NTSC 3 and *American Flange & Manufacturing Co Inc v Rheem Australia Pty Ltd* [1963] NSWR 1121.

[13] [2006] WASC 281 at 15 and 16

52. Accordingly I will not make any particular directions or Orders in response to the Workers submissions on this issue.

53. On consideration of the Workers first two grounds for opposing the Employers proposed amendments set out in paragraph 11 above, I am not satisfied that the proposed amendments are futile or that they fail to meet the test in *McDonnel Shire Council v Miller*[14] "*... whether or not the amendments are so obviously bad at law that it would be futile to allow an amendment.*"

The nature of particulars in a mere appeal

54. The Worker contends (quite correctly) that their application falls into the categorisation of a 'mere appeal' which has the effect that the Employer bears the onus of establishing that their Notice of Decision is valid is dux litus at any final hearing.

55. The Worker is concerned that the Employers proposed particulars in the Amended Notice of Defence at 1 places the claim that the Worker is not a Worker within the meaning of the Act, within the Defence when it should rightfully be contained within the Counterclaim[15].

56. The Worker submits that the Defence should be contained to just that – defending the Statement of Claim, which arises in the context of an appeal of the Notice of Decision, a Notice which does not raise the issue of the legal definition of Worker under the Act.

57. As a basic proposition, I agree. The clarity of that finding however, is somewhat clouded when you consider the correspondence of the Workers legal representative to the Employers legal representative on 12 September 2019[16].

58. I note the pleadings[17] as they currently stand are as follows:

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[14] [2009] NTSC 46 per Mildren J

[15] Indeed it is at 1 where the Employer "*repeats the allegations contained in paragraphs 1 to 8 of the Defence and says that the Worker was not a "worker" within the meaning of and purposes of the Act*"

[16] Annexure "A" to the Affidavit of Emma Shultz sworn 21 October 2019.

[17] As to the definition of a Worker.

- Statement of Claim filed 15 August 2019: *" 1. At all material times the Worker was a worker as defined by the Act*"; and
- Notice of Defence filed 30 August 2019: *" 1. The Employer denies the allegations contained in paragraph 1 of the Statement of Claim and says the Worker was not a worker as defined in the* Return to Work Act... *particulars of which will be provided after discovery."*

59. The correspondence referenced above states:

> " <u>Defence</u>
>
> *2. Paragraph 1 does not disclose a reasonable defence of our clients claim in respect of your clients section 69 notice.*
>
> *3. It suffers from the fundamental defect that it lacks particularity e.g on what basis or by what reference in the* Return to Work Act 1986 (NT) *does your client allege that our client is not a worker as defined..."*

60. It is easy to understand therefore, why the Employer elected to insert the particulars into the Defence following discussions between legal representative regarding the suitability of the pleadings and whether they were liable to be struck out. The Employer was merely appeasing the Workers request, and now finds themselves in a position where submissions are being made that their amendments in this regard are improper.

61. As noted above, I accept the proposition submitted on behalf of the Worker that the proper place for the particularisation of the allegation as to the definition of 'worker' is within the counterclaim. I also accept the submission that it is not just a matter of 'form'. The precedents and procedures which provide clarity on the issues of who bears the onus of proof and who will be dux should be maintained, lest, as submitted for the Worker, the waters become 'muddied', leaving room for further arguments, delays and unnecessary costs.

62. Of course the Employer must remain compliant with the requirements set out in Part 8 of the *Work Health Court Rules* in relation to their pleadings and should not engage in mere denials. I see no reason however that the Employer could not simply reverse the

manner in which the issue as to the definition of a worker under the Act is currently pleaded and set out in full the particulars relied upon within the counterclaim and merely reply upon those pleadings in the body of the Defence.

63. I note that this proposition was put to the Employer during the Hearing and they raised no specific objection to this course. Accordingly, I will so Order.

APPLICATION FOR DISCOVERY

64. The Employer's application for early discovery of various financial documents was filed on 11 November 2019. The application was amended orally at the Hearing of the matter to contain the documents being sought to those from the date of injury to date.

65. In the ordinary course discovery will follow the finalisation of pleadings, however clearly in this matter, pleadings are yet to be finalised.

66. The Worker submits that the usual course should be adopted and full discovery undertaken once pleadings are complete. The Worker contends that the current pleadings are not in a form where the parties could adequately determine if the documents being sought are relevant to the issues in dispute. And further, there being no evidence to suggest the Worker has or will be non-compliant with his obligations as to discovery, the court should not exercise its discretion to order early discovery pursuant to Rule 3.04(f) of the *Work Health Court Rules*.

67. The Employer tendered the Report of Orthopaedic Surgeon Dr Bruce Low in support of their application. Dr Low notes at page 4 of his report dated 6 May 2019:

> *"A job search agency through worker's compensation who tried to get him back into different jobs. There was nothing sustainable long term. At the moment he works in an Airbnb doing basic maintenance and he does some basic maintenance at a childcare centre, nothing heavy or physical."*

68. As set out above in these reasons, the Worker is on notice that working/earning capacity is in issue in the proceedings. Indeed partial or full earning capacity is plead in the current Notice of Decision, filed 30 August 2019. The Employer submits it is simply trying to ensure access to the relevant documentation at the earliest possible juncture.

69. There is clear evidence before the Court that the Worker has been able to engage in some form of, presumably paid, employment since the date of injury. The nature, regularity and value of same is unknown. If the Worker is successful in setting aside the Notice of Decision the Court will turn then to consider the level of any remaining capacity as a part of the Employers counterclaim.

70. It is difficult to see any scenario where the documents being sought: payslips, tax records and invoices for the Worker and related ABN, will not be relevant and directly related to the earning capacity dispute – irrespective of how it is plead or indeed the relevance to the concurrent dispute relating to the definition of 'worker'.

71. In my view, the request of the Employer is not unreasonable, is unlikely to prove irrelevant or unnecessary and indeed the Worker conceded there was no known prejudice should he be compelled to comply with an Order for early discovery.

72. In the circumstances and in an effort to avoid further delays, noting the interlocutory dispute, the delay in the publishing of the resultant Orders and the need to allow the Employer to finalise their pleadings (and the Worker, presuming an amended Reply and Defence to counterclaim will be required) in a timely manner, I am minded to exercise my discretion and make orders in terms of the Employers application for discovery, as amended at the Hearing of the application.

ORDERS:

1. The Employer is granted leave to file and serve an amended Notice of Defence and counterclaim within 21 days, with the full particularisation of the Employer's allegation that the Worker is not a worker within the definition of the *Return to Work Act* to be contained in the counterclaim;
2. The Worker make discovery of the following documentation within 21 days;
    a. The Worker's taxation records, including tax returns, income tax assessments, and PAYG summaries from the date of injury to the date of these Orders, including taxation records relating to ABN 28 758 725 549;
    b. Any payslips of the Worker from the date of injury to the date of these Orders; and

c. Any invoices issued by the Worker under ABN 28 758 725 549 for work completed by the Worker from the date of injury to the date of these Orders.

3. The costs of the Employer's interlocutory applications are reserved.
4. Parties have liberty to apply with respect to the time table for compliance with these Orders and the issue of costs.
5. Matter is listed for a pre-hearing conference on 30 January 2020 at 9.00 am with the attendance of represented parties excused.

Dated this 31st day of January 2020

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LEANNE GORDON

JUDICIAL REGISTRAR