

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged:	Subpoena
Court of Filing:	FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (FCFCOA)
Date of Lodgment:	4/04/2024 2:16:51 PM AEDT
Date Accepted for Filing:	5/04/2024 11:13:01 AM AEDT
File Number:	SYG256/2024
File Title:	FRANCIS LIAM CARNEY v EXCELSIA COLLEGE ACN 110 639 435
Registry:	SYDNEY REGISTRY- FEDERAL CIRCUIT AND FAMILY COURT - FEDERAL LAW
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised

DOCUMENTS TO BE PRODUCED TO THE REGISTRY BY 16 APRIL 2024. LAST DAY FOR SERVICE IS 5 APRIL 2024.



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.



# Subpoena - General Federal Law and Migration

Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021 - RULE 16.01

Please type or print clearly and mark [X] all boxes that apply. Attach extra pages if you need more space to answer any questions.

Filed in:

- ☒ Federal Circuit and Family Court of Australia  
☐ Other (specify)

Type of Proceeding:

- ☐ Migration Law  
☒ General federal law

Filed on behalf of (full name) Excelsia College Ltd

MARK [X] IN THE BOX THAT APPLIES TO YOU

- ☐ Applicant ☒ Respondent ☐ Other (specify)

## COURT USE ONLY

Client ID

File number SYG256/2024

Filed on

The last date for service of this subpoena is  
(refer to Notes 2 to 8)

Documents must be produced to registry by

TO **FRANCIS LIAM CARNEY**

NAME

Address

**119 Cleveland Street, Darlington NSW 2008**

**YOU ARE ORDERED TO:** (select one box only)

- ☐ Attend court to give evidence (see Part B for details of order)  
☐ Attend court to give evidence and produce documents (see Part C for details of order)  
☒ Produce documents to the Court (see Part D for details of order)

**TAKE NOTICE: if you fail to obey this subpoena**

- a warrant may issue for your arrest
- you may be liable to pay any costs occasioned by your failure to comply, and

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Registrar: \_\_\_\_\_

The last date for service of this subpoena is: 05 / 04 / 2024

(See Notes 2-8)

**Please read the Notes at the end of this subpoena**

## Part A About the parties to the proceeding

### 1 APPLICANT 1

Family name (as used now)/Title/Organisation

Carney

Given names

Francis Liam

### RESPONDENT 1

Family name (as used now)/Title/Organisation

Excelsia College Ltd ACN 110 639 435

Given names

Filed on behalf of Excelsia College Ltd, respondent

Prepared by Alex Kohn

Name of law firm Makinson d'Apice Lawyers

Address for Service in Australia **MAKINSON D'APICE LAWYERS**  
Level 10, 135 King Street, Sydney NSW 2000

Email mail@makdap.com.au

Ref 241761:AXK

Tel 02 9233 7788



## Part B Details of order to attend court to give evidence

**Date** you must attend court: \_\_\_\_/\_\_\_\_/\_\_\_\_

**Time** you must attend court: \_\_\_\_\_ AM ☐ PM ☐

**Place** you must attend court:

You must continue to attend each day unless excused by the Court or until the hearing of this matter is completed.

## Part C Details of order to attend court to give evidence and produce documents

**Date** you must attend court: \_\_\_\_/\_\_\_\_/\_\_\_\_

**Time** you must attend court: \_\_\_\_\_ AM ☐ PM ☐

**Place** you must attend court:

You must continue to attend each day unless excused by the Court or until the hearing of this matter is completed.

When you attend court, you must produce the documents and things described in the Schedule at Part E.

## Part D Details of order to produce documents to the Court

**NOTE:** Copies of documents should be produced to the Court electronically in PDF format unless electronic production is not possible.

You must produce the documents and things described in the Schedule at section E to the Court:

**Date and time** for production: **On or before** \_\_\_\_4\_\_\_\_ PM on \_16/\_04/\_2024\_

**Email:** [nswreg@fedcourt.gov.au](mailto:nswreg@fedcourt.gov.au)

**Place:** Level 17, Law Courts Building, Queens Square, Sydney NSW 2000

**Instead of attending court** you may post or deliver the books, documents and things described in the Schedule to the Registry at the 'address of Court' specified above at least 2 days before the date for production specified above. **See Notes 14 and 15 for automatic release of documents.**

**This subpoena was issued at the request of the issuing party named in the footer on page 1.**

**DO NOT** send subpoenaed documents to this person. Subpoenaed documents must be produced to the Court, notwithstanding any objection being made.

**The registrar will issue a receipt to the person producing the documents or things.**

## Part E SCHEDULE

**Documents and things you must produce from your possession, custody or control:**

1. A copy of this subpoena.
2. All documents sent to or received from St Pius Primary School, Enmore between 1 January 2022 and 30 June 2022 concerning your Practicum at that school.
3. A signed copy of your "Identification of a Student at Risk of Not Passing Professional Experience" form from St Pius Primary School, Enmore dated on or about 7 April 2022.
4. All applications, defences, points of claim, points of defence, statements, affidavits, deeds of settlements/release and all other documents relating to your Fair Work case against St Pius Primary School, Enmore.



5. A copy of your work contract for BAE Systems from 1 November 2021 to 26 February 2024.
6. All records showing receipt of wages from BAE Systems from 1 November 2021 to 26 February 2024.
7. A copy of your work contract for Project Control Management from 1 November 2021 to 26 February 2024.
8. All records showing receipt of wages from Project Control Management from 1 November 2021 to 26 February 2024.
9. All work contracts, job descriptions, position descriptions, details of salary (gross and net), reasons for cessation of employment and all other documents concerning your employment with the NSW Department of Education between August 2020 and February 2024+.
10. All documents and NESA certification documents relating to your teaching at Marrickville West Public School from August 2020 to 26 February 2024.
11. A copy of your work contract for STEM Education from 1 November 2021 to 26 February 2024.
12. All records showing receipt of wages from STEM Education from 1 November 2021 to 26 February 2024.
13. All documents relating to your employment at Sydney Catholic Schools from June 2015 to 26 February 2024 including contracts of employment; job descriptions; details of gross and net wage.
14. All your Income Tax Returns and Notices of Assessment for the financial years 30 June 2021 to 30 June 2024.
15. All documents relating to your apprenticeship at Excelsia College as noted on your LinkedIn profile.
16. All documents relating to your apprenticeship at the University of Southern Queensland as noted on your LinkedIn profile.

**NOTE: You may, with the consent of the issuing party, produce a copy, instead of the original of a document.**

**NOTE: Objection to production, inspection or copying of documents**

Any person named in this subpoena or affected by this subpoena to produce documents or things, may object to the production or inspection or copying of documents by completing, filing and serving a [Notice of Objection - Subpoena](#) available at [www.fcfcoa.gov.au/resources/forms](http://www.fcfcoa.gov.au/resources/forms). See Notes 11-13.

## NOTES

### Limitations — subpoenas

1. A party must not request the issue of more than 5 subpoenas in a proceeding without the Court's leave: see rule 16.04 of the General Federal Law Rules.

### Service of subpoena

2. A subpoena requiring a person to **give evidence** must be served personally on the person subpoenaed: see rule 6.06 of the General Federal Law Rules.
3. Personal service of a subpoena is not required in certain circumstances: see rule 6.06(2) of the General Federal Law Rules.
4. The issuing party must serve a copy of this subpoena on each other party and any interested person in the proceeding by ordinary service: see rule 16.05(2) of the General Federal Law Rules.
5. An 'interested person' means a person who has a sufficient interest in the subpoena.
6. The issuing party must serve the subpoena on the person subpoenaed, the other parties, any independent children's lawyer and any interested person as follows:
  - (a) at least **7 days** before the date for attending court for a subpoena to **attend court to give evidence**;
  - (b) at least **10 days** before the date for attending court for a subpoena to **attend court to give evidence and to produce documents**;
  - (c) at least **10 days** before the date for producing documents for a **subpoena requiring the person to produce documents to the Court**.
7. The named person may reach an agreement with the issuing party in relation to a different **manner of service** of a subpoena to produce documents only.
8. The **issuing party** may reach an agreement with each other party, any interested person and any independent children's lawyer in relation to a different **manner of service**.

### Cost of complying with subpoena

9. The person serving the subpoena must give the person subpoenaed conduct money sufficient to meet the reasonable expenses of compliance. The amount of conduct money must be at least \$25. See rule 16.06 of the General Federal Law Rules.
10. If you are the person subpoenaed and you are not a party in the proceeding and you will incur substantial loss or expense in properly complying with the subpoena, you may apply to the Court for an order that the issuing party pay you an amount in respect of the loss or expense. Before making such an application you may wish to give notice to the issuing party that substantial loss or expense would be incurred in properly complying with the subpoena, including an estimate of the loss or expense.

## Objection to production, inspection or copying of documents

11. The person required by this subpoena to produce documents or things may object to producing a document by completing, filing and serving the attached [Notice of Objection - Subpoena](#) before the date specified in this subpoena for production. The documents or things identified in the subpoena must be provided to the registry before the date of production, even if the person required to comply with the subpoena lodges a [Notice of Objection](#).
12. Any party or any interested person or any independent children's lawyer may object to inspection or copying of a document described in this subpoena by completing, filing and serving the attached [Notice of Objection – Subpoena](#) before the date specified in this subpoena for production.
13. For non-parties, a [Notice of Objection](#) can be lodged for filing by email to the relevant general federal law registry email address on the Court's website: [www.fcfcoa.gov.au](http://www.fcfcoa.gov.au).

**NOTE:** Rule 16.13 of the General Federal Law Rules.

## Automatic release of documents for inspection or copying (Part D)

14. Subject to any objection being upheld or an order of the Court and subject to the issuing party filing a [Notice of Request to Inspect](#) in the approved form, each party and any independent children's lawyer may, by appointment, inspect all documents produced in response to this subpoena and may take copies of all documents produced in response to this subpoena (other than a child welfare record, medical record, criminal record or police record): see rule 16.12 of the General Federal Law Rules.
15. A person who inspects or copies a document produced in response to this subpoena must:
  - (a) use the document for the purpose of the proceeding only, and
  - (b) not disclose the contents of the document or give a copy of it to any other person without the Court's permission (except to a lawyer or client).

## Medical, criminal and police records

16. Medical records, criminal records and police records produced in response to this subpoena will be available for inspection by each party and any independent children's lawyer, but these records will not be available for copying without an order of the Court.

**Criminal record** means a record of offences for which the person has been found guilty.

**Medical record**, for a person, means the histories, reports, diagnoses, prognoses, interpretations and other data or records, written or electronic, relating to the person's medical condition or treatment, that are maintained by a physician, counsellor, hospital or other provider of services or facilities for medical treatment.

**Police record** means records relating to the person kept by the police, including statements, police notes and records of interview.

## Objection by person to inspection of medical records

17. If the documents to be produced under this subpoena include a person's medical records, that person may, **before** the date stated for production, notify the Court in writing that they wish to inspect the records for the purpose of determining whether to object to the inspection or copying of the document by any other party: see rule 16.13 of the General Federal Law Rules.
18. If such notice is given:
  - (a) that person may inspect the medical records and may, within 7 days after the date stated in the subpoena for production, object to inspection or copying of a document described in this subpoena by completing, filing and serving the attached [Notice of Objection - Subpoena](#), and
  - (b) unless otherwise ordered, no other person may inspect the medical records until the later of 7 days after the date stated in the subpoena for production or the hearing and determination of the objection.



### **Time and date for hearing an objection**

Any objection in relation to this subpoena will be heard before a judge or registrar. The Registrar will advise the parties and the objector of the time and date when they will be required to attend court for the hearing and determination of the objection.



# Notice of objection – Subpoena

Federal Circuit and Family Court of Australia (Family Law) Rules 2021 – RULE **6.38**  
Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021 – RULE **16.13**

**Any person named in a subpoena or affected a subpoena who objects to the production or inspection or copying of documents described in the subpoena must:**

1. complete and sign this *Notice of Objection*.
2. **file** this *Notice of Objection* together with a copy of the subpoena before the date for production of documents required by the subpoena. If you are the person required in the subpoena to provide the documents or things, you are still required to provide these to the court registry prior to the date of production.
3. serve a copy of this *Notice of Objection* together with a copy of the subpoena on the issuing party, all other parties (including any independent children's lawyers), and the person being subpoenaed (if that is not your), and
4. **attend Court** on the date set by the Registrar for consideration and determination of this Objection.

File number \_\_\_\_\_

Date for production or Court attendance \_\_\_\_\_

Court (Registry)  
location \_\_\_\_\_

## Part A Details of Objection

**TO** the Registrar of the Federal Circuit and Family Court of Australia, at (registry): \_\_\_\_\_

**AND TO** the issuing party

**AND TO** all other parties in this proceeding

(Name of person objecting): \_\_\_\_\_

(select **one** box only)

☐ I am the person subpoenaed in the attached subpoena

☐ I have been given a copy of the attached subpoena directed to

(Name of person subpoenaed): \_\_\_\_\_

Filed on behalf of \_\_\_\_\_

Prepared by \_\_\_\_\_ Excelsia College, respondent

Prepared by \_\_\_\_\_ Alex Kohn

Name of law firm \_\_\_\_\_ Makinson d'Apice Lawyers

Address for service in Australia \_\_\_\_\_  
Address for Service **MAKINSON D'APICE LAWYERS**  
in Australia \_\_\_\_\_ Level 10, 135 King Street, Sydney NSW 2000

Email \_\_\_\_\_ mail@makdap.com.au

Tel \_\_\_\_\_ 02 9233 7788

Telephone \_\_\_\_\_

Ref 241761:AXK

State \_\_\_\_\_ Postcode \_\_\_\_\_





## Details of Objection continued

(select box or boxes)

- ☐ I give notice that I object to the production of some or all of the documents to the Court for the following reasons: *(attach extra page if insufficient space)*

1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- ☐ I give notice that I object to the inspection/copying of some or all of the documents produced for the following reasons: *(attach extra page if insufficient space)*

1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Part B Signature

Signed

Date

/ /

Signed by (print full name): \_\_\_\_\_

☐ the person objecting

☐ lawyer for the person objecting

Approved by the Chief Justice/Chief Judge pursuant to Rule 15.21 of the Family Law Rules and Rule 2.01 of the General Federal Law Rules

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