

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:	25/03/2024 6:33:43 PM AEDT
Date Accepted for Filing:	26/03/2024 2:07:33 PM 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 VIA EMAIL TO nswreg@fedcourt.gov.au 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
COURT USE ONLY

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

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): Francis Carney

MARK [X] IN THE BOX THAT APPLIES TO YOU

- ☒ Applicant ☐ Respondent ☐ Other (specify) _____

NAME

TO **EXCELSIA COLLEGE**

Address

69-71 Waterloo Rd, Macquarie Park

State NSW Postcode 2113

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 be issued for your arrest, and
- you may be liable to pay any costs occasioned by your failure to comply.

Date: ____ / ____ / ____ Registrar: _____

The last date for service of this subpoena is ____ / ____ / ____ (See Notes 2–8).

Please read the Notes at the end of this subpoena

Filed on behalf of	The Applicant	
Prepared by	Margaret Bateman, Barrister	Lawyer's code
Name of law firm		
Address for service in Australia	119 Cleveland St. Darlington	
	State NSW	Postcode 2008
Email	f4carney@gmail.com	
Telephone		

Part A

About the parties to the proceeding



APPLICANT 1

Family name (as used now)/Title/Organisation

CARNEY

Given names (as required)

FRANCIS LIAM

RESPONDENT 1

Family name (as used now)/Title/Organisation

EXCELSIA COLLEGE

Given names (as required)

APPLICANT 2

Family name (as used now)/Title/Organisation

Given names (as required)

RESPONDENT 2

Family name (as used now)/Title/Organisation

Given names (as required)

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 _____ PM on ____ / ____ / ____

Email: _____

Place: _____ registry, (address of court)

State: _____ Postcode: _____

Instead of attending court you may email or deliver the 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

(if insufficient space attach list)

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

1. A copy of this subpoena.
2. A copy of all documents received by the Respondent from the Applicant during period commencing on 1 November 2021 and ceasing on 15 February 2024.
3. A copy of all documents sent by the Respondent to the Applicant during period commencing on 1 November 2021 and ceasing on 15 February 2024.
4. A copy of all documents received by the Respondent from St Pius School in Enmore in the State of New South Wales, hereinafter referred to as 'St Pius School', during the period commencing on 1 November 2021 and ceasing on 15 February 2024 that relates to the Applicant.
5. A copy of all documents sent by the Respondent to St Pius School during the period commencing on 1 November 2021 and ceasing on 15 February 2024 that relates to the Applicant.
6. A copy of all documents sent by the Respondent to a Tertiary Supervisor or Tertiary Supervisors, including but not limited to documents sent to Dr Peter Stiles, during the period commencing on 1 November 2021 and ceasing on 15 February 2024 that relates to the Applicant.
7. A copy of all documents received by the Respondent from a Tertiary Supervisor or Tertiary Supervisors, including but not limited to documents received from Dr Peter Stiles, during the period commencing on 1 November 2021 and ceasing on 15 February 2024 that relates to the Applicant.
8. A copy of all documents sent by the Respondent to a school or schools, other than St Pius School, during the period commencing on 1 November 2021 and ceasing on 15 February 2024 that relates to the Applicant.
9. A copy of all documents received by the Respondent from a school or schools, other than St Pius School, during the period commencing on 1 November 2021 and ceasing on 15 February 2024 that relates to the Applicant.
10. A copy of all documents sent by the Respondent to the Australian Government Department of Education, Skills and Employment, for the purpose of establishing and managing a loan (the "HELP scheme"), during the period commencing on 1 November 2021 and ceasing on 15 February 2024 that relates to the Applicant.
11. A copy of all documents received by the Respondent from the Australian Government Department of Education, Skills and Employment, for the purpose of establishing and managing a loan (the "HELP scheme"), during the period commencing on 1 November 2021 and ceasing on 15 February 2024 that relates to the Applicant.

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12. A copy of all documents that record that communication has occurred and the contents of that communication between an employee of the Respondent and an employee of St Pius School during the period commencing on 1 November 2021 and ceasing on 15 February 2024 that relates to the Applicant.
 13. A copy of all documents that record that communication has occurred and the contents of that communication between an employee of the Respondent and a Tertiary Supervisor or Tertiary Supervisors, including but not limited to documents that communication has occurred and the contents of that communication between an employee of the Respondent and Dr Peter Stiles, during the period commencing on 1 November 2021 and ceasing on 15 February 2024 that relates to the Applicant.
 14. A copy of all documents that record that communication has occurred and the contents of that communication between an employee of the Respondent and an employee of a school or schools, other than St Pius School, during the period commencing on 1 November 2021 and ceasing on 15 February 2024 that relates to the Applicant.

NOTE: You may produce a copy of the document or thing instead of the original unless the subpoena specifically requires the production of the original document or thing.

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](http://www.fcfa.gov.au/resources/forms) available at www.fcfa.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 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 a [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 a [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.fcfcga.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 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 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, 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, that are maintained by a physician, 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 a [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

19. 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.