

## NOTICE OF FILING

### Details of Filing

Document Lodged:	Defence
Court of Filing	FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (FCFCOA)
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File Title:	FRANCIS LIAM CARNEY v EXCELSIA COLLEGE ACN 110 639 435
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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.



## Defence

Federal Circuit and Family Court of Australia

No. SYG256/2024

District Registry: Sydney

Division: General

### FRANCIS LIAM CARNEY

Applicant

### EXCELSIA COLLEGE LIMITED (ACN 110 639 435)

Respondent

The Respondent pleads as follows to the applicant's Statement of Claim:

1. The respondent denies the applicant's claims for relief.
2. The respondent admits paragraph 1 of the Statement of Claim.
3. The respondent admits paragraph 2 of the Statement of Claim.
4. As to paragraph 3 of the Statement of Claim, the respondent:
  - (a) admits that the applicant completed a Graduate Certificate in Education Studies at the respondent's College in 2021 and applied for a Master of Teaching (Primary) in January 2022;
  - (b) does not admit the remainder of that paragraph.
5. The respondent admits paragraph 4 of the Statement of Claim.
6. The respondent denies paragraph 5 of the Statement of Claim.
7. As to paragraph 6 of the Statement of Claim, the respondent:
  - (a) admits that in or about November 2021 the applicant made a telephone call to the respondent enquiring about the obtaining of teacher accreditation to teach in

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Filed on behalf of Excelsia College Limited, Respondent

Prepared by Alexander Kohn

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primary schools in NSW;

- (b) does not admit the remainder of that paragraph including the "*Abraham Representations*".

8. As to paragraph 7 of the Statement of Claim, the respondent:

- (a) admits that the applicant submitted an online application to enrol in the Graduate Certificate course with the respondent;
- (b) admits that the respondent accepted the applicant's online application to enrol in the Graduate Certificate course;
- (c) admits that the applicant enrolled in the Graduate Certificate course with the respondent;
- (d) admits that the applicant completed the Graduate Certificate course;
- (e) does not admit the remainder of that paragraph.

9. As to paragraph 8 of the Statement of Claim, the respondent:

- (a) admits that the applicant applied for a Master of Teaching (Primary) in January 2022;
- (b) says that as part of the requirements of that course, the applicant was required to undertake and successfully complete a Professional Experience/Practicum in order to receive teacher accreditation to teach in primary schools in NSW;
- (c) does not admit the remainder of that paragraph including the "*Boadu Representations*".

10. As to paragraph 9 of the Statement of Claim, the respondent:

- (a) says that the applicant sought expedition of Recognition Prior Learning (**RPL**) and expedition of his Practicum;
- (b) granted special consideration to the applicant to enable him to undertake his Practicum earlier than other students and on an expedited basis;
- (c) says that it placed the applicant at St Pius Primary School, Enmore, for his Practicum (St Pius);

- (d) says that the satisfactory completion of the Practicum by the applicant was required before he could obtain teacher accreditation to teach in primary schools in NSW;
  - (e) does not admit the remainder of that paragraph including the "*Webster Representations*".
11. As to paragraph 10 of the Statement of Claim, the respondent:
- (a) admits that the applicant enrolled in the Master of Teaching (Primary) course with the respondent;
  - (b) does not admit the remainder of that paragraph.
12. As to paragraph 11 of the Statement of Claim, the respondent:
- (a) admits the applicant enrolled in the courses referred to in that paragraph, and that the respondent granted the applicant RPL in the courses mentioned;
  - (b) does not admit the remainder of that paragraph.
13. As to paragraph 12 of the Statement of Claim, the respondent:
- (a) admits that it approved the applicant to commence his Practicum on an expedited basis at the end of February 2022;
  - (b) says that the applicant needed to satisfactorily complete the Practicum to obtain his teacher accreditation;
  - (c) does not admit the remainder of that paragraph.
14. The respondent admits paragraph 13 of the Statement of Claim.
15. As to paragraph 14 of the Statement of Claim, the respondent:
- (a) says that the respondent did not complete the Practicum at St Pius;
  - (b) says that on or about 7 April 2022, the applicant was requested to attend a meeting at St Pius with his supervising teacher to discuss his progress in the Practicum;
  - (c) the purpose of the said meeting with the applicant was to identify concerns with his progress in the Practicum and to indicate areas of improvement that were required to be undertaken, the failure of which would result in the applicant not successfully completing his Practicum;

- (d) amongst the areas of concern identified by St Pius Primary School during the applicant's early stages of the Practicum and to be discussed with the applicant during the meeting included:
  - (i) no modelling of the lesson;
  - (ii) not following the lesson plan;
  - (iii) not marking work against the learning intention;
  - (iv) not remaining with the classroom teacher and students during the lessons thereby not discharging his duty of care;
  - (v) leaving the classroom during lesson time without permission;
  - (vi) being on his computer in the Hall, instead of supervising students;
  - (vii) not implementing the feedback given to him;
  - (viii) handing in lesson plans on the morning of the day thereby not providing enough time for the classroom teacher to critique and change the draft lesson plan;
  - (ix) being on the phone (taking calls or messaging) during lessons;
- (e) the applicant walked out of the meeting, left St Pius at 2.45 pm without notifying his supervisor;
- (f) as a result of the applicant's conduct as set out in subparagraphs (d) and (e) above, St Pius was not willing to continue the applicant's Practicum at its school;
- (g) the applicant thereafter refused to engage with the respondent's representatives as to a placement for an alternate Practicum;
- (h) as a result of the applicant's failure to complete his Practicum, the applicant failed that unit;
- (i) the respondent does not admit the remainder of paragraph 14 of the Statement of Claim.

16. The respondent denies paragraph 15 of the Statement of Claim.

17. The respondent denies paragraph 16 of the Statement of Claim and repeats paragraph 15 of this Defence.

18. As to paragraph 17 of the Statement of Claim, the respondent:
- (a) admits the applicant did not complete a Practicum at a school in the first semester of 2022 and was therefore not able to obtain conditional teacher accreditation to teach in primary schools in NSW by mid-2022;
  - (b) says that the applicant did not complete the Practicum at St Pius for the reasons set out in paragraph 15 of this Defence;
  - (c) denies that the respondent engaged in misleading and deceptive conduct.
19. The respondent denies paragraph 18 of the Statement of Claim.
20. The respondent denies paragraph 19 of the Statement of Claim.
21. The respondent denies paragraph 20 of the Statement of Claim and says that at all material times the applicant could have completed his Practicum at another school in 2022 or at any time following. The respondent further says that it did not terminate the applicant's enrolment but merely failed him in the particular unit due to his abandonment of this Practicum.
22. The respondent denies paragraph 21 of the Statement of Claim.

Dated: 22 / 03 / 2024



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Signed by Alexander Kohn  
Lawyer for the Respondent

This pleading was prepared by Alexander Kohn, lawyer.

### **Certificate of lawyer**

I Alexander Kohn certify to the Court that, in relation to the defence filed on behalf of the Respondent, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non admission in the pleading.

Dated: 22 / 03 / 2024



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Signed by Alexander Kohn  
Lawyer for the Respondent