

Liability limited by a scheme approved under Professional Standards Legislation

19 January 2016

Mr Andrew Laughton
11B Keble Heights
Bunbury
WA 6230

Dear Mr Laughton

RE: Retaining Wall

Please find enclosed Sharyl Marsh's Affidavit Verifying Disclosure of Documents, Form 35, filed at the Bunbury Court House today.

Kind regards



Ian Morison

**MAGISTRATES COURT of WESTERN AUSTRALIA
(CIVIL JURISDICTION)
AFFIDAVIT VERIFYING DISCLOSURE OF DOCUMENTS
FORM 35**

Registry: Bunbury		Case number: BUN/GCLM/316/2015
Claimant	Andrew Laughton	
Defendant	Sharyl Marsh and (by order of Magistrate Scaddan made 15 January 2016) James Glynn Marsh	

I Sharyl Marsh of 14 Trinity Rise College Grove 6230 (full name and address) administrator (occupation)

(* Select as applicable)

having been duly *sworn say on * oath the following:

1. The statements made by me in paragraphs 2, 3 and 4 of the list of documents now produced and shown to me marked are true.
2. The statements made by me in paragraph 5 of the said list are true to the best of my knowledge, information and belief.
3. The obligations of disclosure have been fully explained to the *defendant or I understand the obligations of disclosure and the consequences of failure to disclose.
4. I am not aware of any documents or objects that are directly relevant to the matters in dispute that have not already been disclosed by the *defendant.

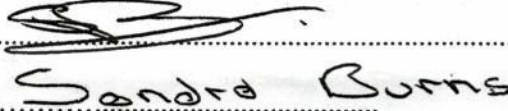
SWORN



at **BUNBURY COURT HOUSE**

this **18** day of **1** 20**16**

in the presence of



Registrar/Justice of the Peace/other authorised witness

**Sandra Burns
Justice of the Peace
WA 7722**



Tick [✓] appropriate box

Lodged by	<input type="checkbox"/> Claimant or Claimants Lawyer <input checked="" type="checkbox"/> Defendant or Defendants Lawyer <input type="checkbox"/> Other			
Address for service	Morison Legal 24 Arthur Street Bunbury			
Contact details	Telephone: 9792 4693	Lawyer's ref: Ian Morison	Fax: 9791 7493	E mail: ian@morisonlegal.com.au

**MAGISTRATES COURT of WESTERN AUSTRALIA
(CIVIL JURISDICTION)
LIST OF DOCUMENTS
FORM 36**

Registry: Bunbury		Case number: BUN/GCLM/316/2015
Claimant	Andrew Laughton	
Defendant	Sharyl Marsh and (by order of Magistrate Scaddan made 15 January 2016) James Glynn Marsh	

(* Delete as applicable)

The following is a list of the documents relating to the matters in question in this case which are or have been in the possession, custody, or power of the *defendant and which is lodged and served in compliance with Rule 30 of the Magistrates Court (Civil Proceedings) Rules 2005.

1. The * defendant has in hers, custody or power the documents relating to the matters in question in this case listed in the first schedule.
2. The *defendant objects to produce the documents listed in Part II of the first schedule on the grounds that
(no objection)
[state the grounds of objection]
3. The *defendant has had, but has not now, in his possession, custody or power the documents relating to the matters in question in this case listed in the second schedule.
4. The documents in the second schedule, were last in the *defendant possession, custody or power on the dates set out in that schedule.

[Here state what has become of the documents and in whose possession they now are.]

5. Neither the *defendant nor his lawyer nor any other person on his behalf, has now, or ever had, in his/hers/its possession, custody or power any document of any description whatever relating to any matter in question in this case, other than the documents listed in the first and second schedules.

The first schedule

PART I

[Here list in a convenient order the documents (or bundles of documents if of the same nature, such as invoices) in the possession, custody or power of the party in question that he does not object to produce, with a short description of each document or bundle sufficient to identify it.]

- 08.05.2012 Building Permit City of Bunbury issued to the Defendant re retaining walls including Certificate of Design Compliance and plans
- 6.11.2012 Original letter from Structerre Consulting Engineers to Claimant re retaining wall at 11B Keble Heights, College Grove.
- 23.10.2012 Contract Quotation NA_17527 from T&V Fencing.
- 14.11.2013 Email from Defendant to Building Services (Water Corporation) 10.11 Last year
- 14.11.2013 Email from Building Services (Water Corporation) to Defendant. 10.46am Yes we approved
- 14.11.2013 Email from Building Services (Water Corporation) to Defendant (no worries Sharyl). 10.20.
- 16.12.2013 8.44 am – email Gary Bruhn, City of Bunbury to Defendant (just following up on the progress).
- 16.12.2013 8.53 am – email from Defendant to Gary Bruhn, City of Bunbury (I am having soil removed this week).
- 25.02.2014 Email from Defendant to Gary Bruhn, City of Bunbury. 11.37 We have removed
- 25.02.2014 Email from Gary Bruhn, City of Bunbury to Defendant. 3.0pm Thank you for your efforts
- 25.03.2014 Email from Gary Bruhn, City of Bunbury to Defendant. 12.53pm Please find attached.



[Handwritten signature]
2/1/14

25.03.2014 Email from Defendant to Gary Bruhn, City of Bunbury. 2.24pm I find it strange.

26.03.2014 Email from Gary Bruhn, City of Bunbury to Defendant. 9.58am I am sorry

26.03.2014 Email from Defendant to Gary Bruhn, City of Bunbury. 8.38am the bin service delivery

26.03.2014 Email from Defendant to Gary Bruhn, City of Bunbury, "could you please send me through your before and after photos". 8.04am.

07.04.2014 Email from Defendant to [unstated] sent from my iPad. 18.22.

07.04.2014 Bruhn to Defendant 2.02pm Thank you for your efforts.

07.04.2014 Email from Defendant to Gary Bruhn, City of Bunbury (my husband and Andrew). 1.57pm.

07.04.2014 Email from Defendant to Claimant (as this fell in a storm).

07.04.2014 Email from Claimant to Defendant (the only reason the fence).

08.04.2014 Email from Defendant to Claimant (I received your email, see you then). 10.21am.

11.04.2014 Letter from Water Corporation to Ian Mumford of St John Ambulance re Colly River Crossing water transfer main replacement.

15.04.2014 Structerre Consulting Engineers' letter to Defendant re embedment checking and compaction test at 14 Trinity Rise, College Grove.

15.04.2014 Email from Defendant to Gary Bruhn (City of Bunbury). 8.24am Structerre Engineers attended.

15.04.2014 Email from Gary Bruhn (City of Bunbury) to Defendant. 10.35am Thank you.

20.04.2014 Email from Claimant to Gary Bruhn and Murray Borthwick (City of Bunbury) and Defendant. 9.24pm To the Bunbury Council.

20.04.2014 Email from City of Bunbury and Defendant.

21.04.2014 Email from Defendant to Claimant "Afternoon all". 3.53pm

21.04.2014 Email from Defendant to Claimant.

21.04.2014 Email from Defendant to Claimant, "just so you are all aware". 15.53.

22.04.2014 Structerre Consulting Engineers, Tax Invoice No. 931300 addressed to Defendant \$495.

22.04.2014 Email from Amy Hanrahan of Structerre to Defendant re completed Job S683553 – to be processed / certified.

22.04.2014 Email from Accounts Receivable at Structerre to Defendant re Structerre Invoice 931300.

22.04.2014 Email from Claimant to Defendant. 9.11am My apologies.

30.04.2014 Structerre Consulting Engineers, Statement of Account, addressed to Defendant for invoice \$495.

08.05.2014 1.05 pm – email from Gary Bruhn, City of Bunbury to Defendant (yesterday I contacted Greg Hamilton).

14.05.2014 Proforma notice of proposed complaint. Signed by the complainant. (Building Services (Complaint Resolution and Administration) Regulations 2011).

26.05.2014 Document prepared on behalf of Defendant and James Marsh entitled "Repair to 5 m section of retaining wall constructed by developers at 11B Keble Heights, College Grove".

28.05.2014 Email from Claimant to BC Info. 8.18pm Not sure where you get.

29.05.2014 Email from BC Info to Claimant. 09.31.

29.05.2014 3.04 pm – email from Claimant to Gary Bruhn, City of Bunbury (it appears that waiting for the Building Commission).

29.05.2014 Email from Gary Bruhn, City of Bunbury to Claimant (sorry I do not think). 16.55

29.05.2014 10.33 am – email from Claimant to BC Info (thank you for your timely response).

29.05.2014 13.51 – email from BC Info to Claimant (in regards to determining the lay of the land).

30.05.2014 19.58 - email Claimant to Gary Bruhn, City of Bunbury (I feel I have exhausted all my options).

05.06.2014 11.43 am – email Claimant to Gary Bruhn, City of Bunbury (do you have any objections).



[Handwritten signature]

05.06.2014 11.50 am – email Gary Bruhn, City of Bunbury to Claimant (a dividing fence is generally not an issue).

13.06.2014 Letter from Debbie Butler of Department of Commerce to Defendant and James Marsh.

18.06.2014 Handwritten letter to WA Building Commission from Defendant.

07.07.2014 4.20 am – email from Claimant to Defendant (I intended to visit last time).

07.07.2014 8.08 am – email from Defendant to Claimant (no preferences).

07.07.2014 8.57 am – email from Claimant to Defendant (are you happy to pay for it).

07.07.2014 Defendant to claimant 9.19am As this fell in a storm.

07.07.2014 10.14 am – email from Claimant to Defendant (the only reason the fence further on is damaged).

07.07.2014 10.31am Defendant to Claimant We did get the quote.

14.07.2014 6.03 pm – email from Claimant to Defendant (I think I have forwarded).

14.07.2014 7.22 pm – email from Defendant to Claimant (as we've always said, no problem).

14.07.2014 Email from Defendant to Claimant. 7.17pm This is what we have been paying.

25.09.2014 Date difficult to decipher. Section details of proposed retaining wall prepared by WML Consultants, Drawing No. 5859-S-002. Revision 0.

26.09.2014 Date difficult to decipher. Plan and suggested propping methodology regarding retaining wall prepared by WML Consultants, Drawing No. 5859-S-001. Revision 0.

06.04.2015 Document entitled, "Sheet 2, Cost for Retaining Wall 6/4/2015".

28.04.2015 4.18 pm – email from Claimant to Defendant (attached are documents from the Magistrates Court).

28.04.2015 8.18 pm – email from Defendant to Claimant (not sure where you get \$29,000).

07.05.2015 Letter from Argirus Papas, director of M&A Papas Stone Constructions to James Marsh.

28.05.2015 Email from D Brightwell of City of Bunbury to Defendant. 3.40pm James/Sharyl.

28.05.2015 Email from D Brightwell of City of Bunbury to Defendant. 3.43pm.

01.06.2015 Email from "Marshie" to Defendant, beginning, "Hi David". 9.12am.

02.06.2015 Email from Defendant to Brightwell.

02.06.2015 Email from Brightwell to Defendant. 2.08pm Due to the age.

26.06.2015 Quote addressed to "Andrew" from Bunbury Concrete Contractors (to dig retaining wall) \$19,800.

11.09.2015 Email D Taylor Water Corporation to Claimant 11.13am "We have checked"

11.09.2015 Email from D Taylor Water Corporation to Defendant 11.23am "As requested"

11.10.2015 Landgate Search of Unit 2, 11 Keble Heights, College Grove.

11.10.2015 Landgate Search of 14 Trinity Rise, College Grove including superseded Certificate of Title 1912/374.

Various or Undated Bundle of 11 photographs numbered 1 to 11 at top left
Documents supplied by the Claimant in the course of the action and the application dated 2 November 2015.

PART II

[Here list the documents in the possession, custody or power of the party in question that he objects to produce.]

Documents the subject of legal professional privileged

The second schedule

[Here list the documents that have been, but at the date of service of the list are not, in the possession, custody or power of the party in question.]

Nil



Date: Claimant/defendant or lawyer:.....

NOTICE TO INSPECT

Take notice that the documents listed in Part I of the first schedule, may be inspected at the office of the lawyer of the *defendant:

on any date and time by appointment with Morison Legal 24 Arthur Street Bunbury
[insert address or as the case may be]

on the day of 20 , between the hours of and

To: The *claimant

11B Keble Heights
College Grove 6230

Tick [✓] appropriate box

Lodged by	<input type="checkbox"/> Claimant or Claimants Lawyer <input checked="" type="checkbox"/> Defendant or Defendants Lawyer <input type="checkbox"/> Other			
Address for service	Morison Legal 24 Arthur Street Bunbury			
Contact details	Telephone: 9792 4693	Lawyer's ref: Ian Morison	Fax: 9791 7493	E mail: ian@morisonlegal.com.au



A handwritten signature in black ink, appearing to be "Ian Morison", is located at the bottom right of the page.