



1A. Affidavit (r. 23A)

District Court of Western Australia		Appeal No / Action No: 1 of 2017	
Held at Bunbury ^{1A}		AFFIDAVIT ¹	
Parties	Andrew Laughton		*Appellant/Plaintiff
	Sharyl Marsh and James Marsh		*Respondent/Defendant
	*delete inapplicable and/or add full party details		
Person making affidavit	Andrew Laughton		
Date of filing			
Date made	9 November 2017		
Purpose ²	Affidavit on security of costs application.		
Filed by	Andrew Laughton. Claimant.		
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I, Andrew Laughton, of 11b Keble Heights, Bunbury, Electrician, [affirm in accordance with the Oaths, Affidavits and Statutory Declarations Act 2005] as follows —

Regarding the Registrars decision on the appeal against appeal 1 of 2017.

There are a number of items that the Registrar appears to be misinformed on, and I will attempt to correct them here.

1. As stated during the hearing, there were two versions of my affidavit to support the appeal against the decision on BUN/GCLM/316/2015.
 - 1.1. The first version was sealed by the court on 23 January 2017, and this was made before I had received the transcript of BUN/GCLM/316/2015, and was made for fear of missing any deadlines due to delays in the court.
 - 1.2. The second version was sealed by the court on 28 March 2017, and was made after I had received a copy of the transcript.
 - a) This second version was sent by registered post to Ian Morrison the day I received it back from the court on 3 April 2017.
 - Registered post receipt number 0384643, tracking number 944106646017
 - 1.3. The courts verdict on the appeal against the appeal for whatever reason was based on the earlier obsolete version.
 - 1.4. I will submit a new appeal as soon as I am able to afford it, and the bulk of this will be obsolete.

Andrew Laughton

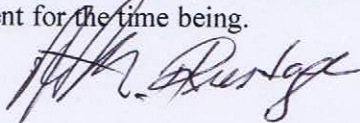
2. Regarding paragraph 44.
 - 2.1. I have not seen this confidential affidavit dated 25 May 2017, however all of these issues have arisen as a direct result of costs to me because the defendants broke the law.
 - 2.2. It is also appropriate to point out that any delays by myself have been minimal, if at all, where the delays due to the court process and the defence have dragged this issue out since the boundary retaining wall was first damaged in 2012.

3. Regarding paragraph 47. There appears to be some confusion on my use of the word "possible" or "might be possible". When asked if I was able to pay security of costs to the court, I simply did not know if I was able to raise that money or not. Rather than say "yes" or "no", I stated that it might be possible.
 - a) This appears to have been misinterpreted as "Yes I can".
 - 3.2. At the date of the hearing (13 July 2017) I was employed at the Ravensthorpe Nickle mine, which has since closed, rendering me unemployed again.
 - 3.3. I have since been able to get short term employment at a shut down at Olympic Dam in South Australia. I do not know how long this work will last, but will most likely end in November or December this year.

4. Regarding paragraph 50, ownership in real estate.
 - 4.1. 10 acres at 98 Proper bay road is owned 100 % by me, with no mortgage.
 - 4.2. 11b Keble Heights is owned 100 % by me, with a mortgage of \$285,866.20 as of 8 Nov 2017.

5. Regarding point 4, paragraph 55 "Will an order shut the appellant out of the appeal ?"
 - 5.1. At the time of the hearing I was under the assumption that the District court held priority over the Magistrates court, and that any payment of defence costs to the Magistrates court would be put on hold until such time as the District court made a decision. My lawyer made the same assumption.
 - a) That assumption has since been proved wrong by the Magistrates court, and it has cost me an additional \$1,000 in defence costs as well as the cost of my own lawyer to find this out.
 - b) I now need to pay the Bailiff over \$24,000, and rising at 6% for the total amount, and risk having my house foreclosed on by the Bailiffs office if I do not pay this back fast enough.
 - 5.2. As I stated in court, I am definitely unable to pay this \$24,000, and I am also unable to pay the \$24,000 in addition to this new amount of \$13,000.
 - a) This is assuming that I can put off the additional \$1,000 for defence against the failed effort to delay the \$24,000 original defence costs until after the appeal, if not I need to raise this additional \$1,000.
 - 5.3. As of the date of this affidavit, I have already paid the Bailiffs office over \$10,000, and will pay the rest as soon as I am able.
 - 5.4. I will endeavour to pay \$13,000 by the 28 day deadline (27 November 2017) to the Bailiffs office, hopefully this will be sufficient for the time being.

6. Regarding the Conclusion, paragraph 57.
 - 6.1. As stated in paragraph 46, any delays are costing me over \$1,700 per month and do in fact prejudice against me very significantly.
 - 6.2. Over the 5 years that this dispute has dragged on for, I have been forced to pay well over \$80,000 just in mortgage costs. This has been a major reason of why I was diagnosed with stress induced depression, which I am still affected by.
 - 6.3. I have also lost what work I had because I needed to attend the court multiple times.



- 6.4. I have also not been able to visit my mum and family for Xmas for the past 4 years due to lack of money. My Dad is dead, and I do not know how long my Mother is going to live for, and there has already been a major scare when she caught Golden Staff after an operation. My niece turned 13 this year and I have not seen her for nearly 5 years.
- 6.5. The defence have caused numerous delays including;
- a) The first pre-trial conference was a complete waste of time as the defence had not prepared.
 - b) The second pre-trial conference made it obvious that both pre-trial conferences were purely so that Ian Morrison could charge extra, and they did not attempt to explain why they refused to contribute to fix the damage they had caused.
 - c) Cancelling a court date that had been booked for 16/12/2015 on 6/10/2015, over two months earlier.
 - This was delayed until 15/01/2016 due to Ian Morrison booking a holiday for this time. Ians holiday cost me approx \$2,000 due to the delay.
 - d) The defence have missed most deadlines set by the court, in one case by 40 days.
 - I have informed the defence that these delays are costing me a lot of money, and that appears to be the reason for the delays.
7. Regarding the Conclusion, paragraph 58.
- 7.1. I have indicated willingness for the appeal to be delayed on the assumption that if I do not agree, the appeal will not be able to take place.
 - 7.2. I also need to delay the appeal until such time as I am able to afford to compose an appeal that addresses the problems highlighted by the appeal against the appeal.
 - 7.3. This new appeal may also need to present additional evidence, as yet to be determined by legal advice that I am unable to afford at this point in time.
 - 7.4. At this point in time I have very little free time due to work commitments, and some delays may also result from this.
8. Regarding Ground 11, paragraph 35.
- 8.1. I have already obtained a Transcript at a reduced cost.
 - 8.2. It is my intention to seek leave to amend the grounds of appeal as suggested in this paragraph, and was requested by both myself and the defence, and it is also my intention to at least have this document proof read, if not written by a lawyer, as soon as I am able to afford this.


[Signature of person making the affidavit]


[Signature of authorised witness]

Authorised witness

[Name of authorised witness]

R. D. PRESTAGE
JUSTICE OF THE PEACE
W.A. 7345

[Qualification of authorised witness] ⁵

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* Entry between 9am (AEDT) 27/03/17 & 11:59pm (AEST) 02/07/17.
Draw: 9am (AEST) 07/07/2017,
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Strawberry Hills, NSW.
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