

Form 59
Rule 29.02(1)

Affidavit

No. _____ of 20

Federal Court of Australia
District Registry: VICTORIA
Division: Commercial and Corporations

Reece Storme FERRARA

Applicant

AUSTRALIAN INSTITUTE OF RESOURCES TRAINING PTY LTD T/A HOST SAFETY AND TRAINING PTY LTD and Another

Respondents

Affidavit of: **Reece Storme FERRARA**
Address: 27 Palisades Bvd South Morang VIC 3752
Occupation: Registered Paramedic
Date: 02 FEBRUARY 2022

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2	Annexure "001", being copy of CLUSTER OF SIMILAR INJURY PRESENTATIONS AND RECOMMENDATIONS		
3	Annexure "002", being copy of Curriculum Vitae		
4	Annexure "003, being the Contract of engagement with Respondent 1 Host Safety and Training		

Filed on behalf of (name & role of party) _____
Prepared by (name of person/lawyer) _____
Law firm (if applicable) _____
Tel _____ Fax _____
Email _____
Address for service
(include state and postcode) _____

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5	Annexure "004", being the forward commitment of all parties to ongoing engagement of services via booked flights		
6	Annexure "005", being Newmont Peronnel file for the Applicant Reece Storme Ferrara showing evidence of no further scheduled work engagements in contradiction to earlier flights pre-booked prior to notification.		
7			
8	Annexure "006", being Email correspondence in chronological order		
9	Annexure "007", Accumulative stressors from two previous events of a similar nature in 2021 and financial distress evidence		
10	Annexure "008", being Reece Ferrara's current AHPRA registration certificate		
11	Annexure "009", being an Outline of events in chronological order.		

I Reece Storme FERRARA affirm:

1. I am the prospective applicant doing so under urgent circumstances and an act of absolute last resort. I have endured what I believe to be a reprisal for performing the role of an Australian Health Practitioner Regulation Agency (AHPRA) Registered Paramedic of which I hold 10 years experience at the Newmont Tanami Gold mine located in the Northern Territory.
2. I identify as living with a neurodevelopmental disability, Attention Deficit Hyperactivity Disorder (ADHD) and Post Traumatic Stress Disorder. Both diagnoses have been assessed as being stable and no exacerbation has been diagnosed by a medical professional to my knowledge to date. I am, however pushed to my limits by actions and consequences herein.
3. Due to circumstances occurring in two past and similar incidents (March 2021 and May 2021) in the Resources and Mining sector I entered this employment opportunity still recovering financially from the past adverse actions and now having my contract ended prematurely and in detrimental victimisation, I am in actual financial distress with creditors pursuing me and my health has declined to presenting to the emergency

department of the Northern Hospital on Saturday February 26, 2022 for psychosocial issues.

4. The most distressing and aggressive of these creditors is the Rata and Co Real Estate Agency who despite full co-operation and regular updates (owing \$425 in rental arrears) continue to send me demand text messages to my phone and email daily and in contravention of a verbal agreement that they would stop. They are preparing to file eviction papers in the coming days.

THE NEWMONT CORPORATION: TANAMI OPERATIONS NORTHERN TERRITORY

5. During the course of my duties, I personally treated several workers for injuries that are likely to be caused by biological or chemical substances in two distinct clusters. The first cluster involved presentations consistent with chemical burns one would receive by the chemical Calcium Oxide (CaO) also known as Lime and of mild to moderate clinical concern to health and safety. The second cluster, being clinically severe and potentially life-threatening presented to me in three cases of mild, moderate, and severe clinical acuity and involves an asphyxiant agent that remains unknown and caused me to genuinely and sincerely be concerned for the safety of personnel at the mine.
6. The first cluster I saw on Monday, February 7, 2022. I treated two cases, one of clinically moderate severity resulting in partial-thickness burns to the lower (R) leg. Another case of small and mild superficial dermatitis working in the same area on the same day. A supervisor advised me that he had seen the moderately severe case the week or so before.
7. I reviewed the clinic presentations summary for the past two months and found alarmingly high number of presentations that were identified in isolation as cellulitis, dermatitis and heat rashes. Despite knowing what operations in the industry do to workers, particularly ones they take advantage of in Labour hire legal arrangements of which I was involved, I rushed to prepare a submission report recommending investigation into what appeared to be an unknown breach in controls that has been ongoing and presentations not being considered in context and similarity to highlight concern.



8. See report titled **Annexure 001 CLUSTER OF SIMILAR INJURY PRESENTATIONS AND RECOMMENDATIONS FOR INVESTIGATION**
(2022 02 08)

9. A summary and chronology of events has been provided in **Annexure 009**

10.

SUMMARY OF LEGAL ARGUMENTS

11. Australian Institute Of Resources Training Pty Ltd T/A Host Safety And Training (hereafter referred to as "**Host Safety And Training**") altered the legal relationship with me as providing services for remuneration via itemised tax invoices in genuine good faith and contractually expect those invoices to be paid per the terms and conditions of the invoice presented. As a result, the contract signed and the course of conduct that evolved was more consistent with an employer/employee relationship.
12. **Host Safety And Training** was not merely being assertive between two genuine companies, instead, exercising a dominant level of control and authority seen in an employer. Throughout, my conduct on reflection showed a subordinate position and submission to that power and control, in the same manner, an employee would to a recognised employer.
13. A direction of an employer, host, or person conducting business undertaking (PCBU) pursuant to the implied power of control must be reasonable. Newmont Tanami Operations (hereafter referred to as "**The Newmont Corporation**"), gave unreasonable directions that were of a nature incompatible with the **Health Practitioner Regulation National Law Act 2009** and the **Work Health and Safety Act 2012 (NT)**.
14. A quasi-proprietary concept applies to my actions and obligations as a paramedic that **Host Safety And Training** and **The Newmont Corporation** claim "*did not follow directions.*" Behaviour consistent with the interests of health and safety of all people, public and on private property under the management and control of **The Newmont Corporation** in the face of assured personal, financial and professional detriment is synonymous with the actions of a whistleblower. The legislation outlined in the **Corporations Act 2001** is a matter of national public interest and importance that prohibits Victimisation and Detriment to anyone found to act in a manner meeting the criteria,

15. **1317AA Disclosures qualifying for protection under this Part**
16. *Disclosure to ASIC, APRA or prescribed body*
17. (1) A disclosure of information by an individual (**Reece Ferrara**) qualifies for protection under this Part if:
18. (a) **Reece Ferrara** is an eligible whistleblower in relation to **Host Safety And Training & The Newmont Corporation**; and
19. (b) the disclosure is made to any of the following:
20. (iii) Worksafe NT and the Permier of NT which is prescribed for the purposes of this subparagraph in relation to **Host Safety And Training & The Newmont Corporation**; and
21. (c) subsection (4) or (5) applies to the disclosure
22. (4) This subsection applies to a disclosure of information if **Reece Ferrara** has reasonable grounds to suspect that the information concerns misconduct, or an improper state of affairs or circumstances (**unsafe exposures to unknown biological or chemical agents and conflicted and sub-standard healthcare provision at the Tanami Gold mine**) , in relation to:
23. (a) **The Newmont Corporation**; or
24. (b) if the regulated entity is a body corporate—a related body corporate of the **The Newmont Corporation**.
25. (5) Without limiting subsection (4), this subsection applies to a disclosure of information if **Reece Ferrara** has reasonable grounds to suspect that the information indicates that any of the following:
26. (a) **The Newmont Corporation**, or an officer or employee of **The Newmont Corporation (Matt Pascoe – HSS Superintendent)**;
27. (b) if the regulated entity is a body corporate—a related body corporate of the **The Newmont Corporation**, or an officer or employee of a related body corporate (**Matt Pascoe – HSS Superintendent**) of **The Newmont Corporation**; has engaged in conduct that:
28. (c) constitutes an offence against, or a contravention of, a provision of any of the following:
29. (i) Corporations Act 2001;
30. (e) represents a danger to the public (unsafe exposures to unknown biological or chemical agents and conflicted and sub-standard healthcare provision at the Tanami Gold mine) or the financial system

31. **1317AAA Eligible whistleblowers** An individual (**Reece Ferrara**) is an *eligible whistleblower* in relation to **The Newmont Corporation** if **Reece Ferrara** has been, any of the following:
32. (c) an individual who supplies services or goods to **The Newmont Corporation** (whether paid or unpaid);
33. (d) an employee of a person that supplies services or goods to **Host Safety And Training** (whether paid or unpaid);
34. **1317AAB Regulated entities**
35. Each of the following is a *regulated entity*:
36. (a) a company;
37. (b) a corporation to which paragraph 51(xx) of the Constitution applies;
38. **1317AAC Eligible recipients**
39. (1) Each of the following is an *eligible recipient* in relation to **The Newmont Corporation & Host Safety And Training** that is a body corporate:
40. (a) an officer or senior manager of the body corporate or a related body corporate; (**The Newmont Corporation: Matt Pascoe – HSS Superintendent & Alex Bates – Regional Manager & Host Safety And Training: Matt Keating - CEO**)
- 41.
42. **1317AADA Personal work-related grievances**
43. (1) Subsections 1317AA(1) and (2) do not apply to a disclosure of information by **Reece Ferrara** to the extent that the information disclosed:
44. (a) concerns a personal work-related grievance of the discloser; and
45. (b) **does not concern** a contravention, or an alleged contravention, of **section 1317AC that involves detriment caused to the discloser** or a threat made to the discloser.
46. (2) information disclosed concerns a *personal work-related grievance* of **Reece Ferrara** if:
47. (a) the information concerns a grievance about any matter in relation to the discloser's employment, or former employment, having (or tending to have) implications for the discloser personally; **and**
48. (b) **the information:**
49. (i) **does not have significant implications** for **The Newmont Corporation & Host Safety And Training** to which it relates, or another regulated entity, that do not relate to **Reece Ferrara**; **and**
50. (ii) **does not concern conduct**, or alleged conduct, **referred to in paragraph 1317AA(5)(c) & (e)**

51. **1317AB Disclosure that qualifies for protection not actionable etc.**

52. (1) If **Reece Ferrara** makes a disclosure that qualifies for protection under this Part:

53. (a) **Reece Ferrara** is not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure; and

54. (b) **no contractual or other remedy may be enforced**, and no contractual or other right may be exercised, **against Reece Ferrara** on the basis of the disclosure.

55. (2) Without limiting subsection (1):

56. (a) the **person has qualified privilege in respect of the disclosure**; and

57. (b) **a contract** to which the person is a party **may not be terminated on the basis that the disclosure constitutes a breach of the contract.** (Host Safety And Training: **Matt Keating – CEO**)

58. **1317AC Victimisation prohibited**

59. *Actually causing detriment to another person*

60. (1) A person **The Newmont Corporation: Matt Pascoe – HSS Superintendent** contravenes this subsection if:

61. (a) **The Newmont Corporation: Matt Pascoe – HSS Superintendent** engages in conduct; and

62. (b) **The Newmont Corporation: Matt Pascoe – HSS Superintendent** conduct causes any detriment to another person (**Reece Ferrara**); and

63. (c) when **The Newmont Corporation: Matt Pascoe – HSS Superintendent** engages in the conduct, **The Newmont Corporation: Matt Pascoe – HSS Superintendent** believes or suspects that **Reece Ferrara** or any other person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part; and

64. (d) the belief or suspicion referred to in paragraph (c) **is the reason, or part of the reason, for the conduct.**

65. **From:** Matt Keating

66. **To:** Reece Storme Ferrara

67. **Subject:** RE: DISPUTE: Invoice 021 Pheonix Paramedical Fire and Rescue

68. **Date:** Monday, 28th February 2022 8:56:42 AM

69. “As discussed with our accounts department, this invoice will need to be re submitted with 2 days deducted from the final amount for days “stood down”. Our client reserves the right to request a deduction for any non-contributing days, and as a sub-contractor (not an employee) those days are not billable as works was not completed and you did not follow directions from our client onsite. Unfortunately, whether you received advice from clinical or non-clinical managers, the client has opted to not pay these days...

70. ... The RTO has been requested to provide specialised personnel to the client, as prescribed in Schedule 1 of this agreement. The RTO will provide these personnel to the client through the use of Subcontractors. Whilst the Subcontractor will provide services to the RTO Company as an independent contractor and not as an employee, for the entirety of this specific project the Subcontractor will be working under the direction of the RTO and the RTO's Client
71. This signed statement means that you were at all times working under the direction of our client, and ultimately, they have made the decision that their directions were not followed."
72. The Newmont Corporation failed to provide a reason in writing on request within 14 days on the 14th February 2022.
73. *Officers and employees involved in contravention*
74. (3) If a company (**The Newmont Corporation & Host Safety And Training**) contravenes subsection (1) or (2), any officer or employee of the company who is involved in that contravention contravenes this subsection.
75. **1317AD Compensation and other remedies—circumstances in which an order may be made**
76. (1) A court may make an order under section 1317AE in relation to **Reece Ferrara** if:
77. (a) **The Newmont Corporation & Host Safety And Training** engages in conduct that:
78. (i) causes any detriment (***involuntary removal of duty & termination of contract***) to Reece Ferrara.
79. Receives urgent treatment by Psychiatrist Dr Arthur Hokin 22 Feb 2022, overwhelmed with despair and a loss of faith in the legal system and the requirement to purchase access to justice outside the financial means of average and especially vulnerable people, Australia, humanity and loss of all things vital, hope. The accumulative effect of detriment had occurred twice before involving the Noble Corporation, Safety Direct Solutions and Medical Rescue Pty Ltd who went as far as fabricating a vexatious allegation of professional misconduct where my mental health diagnosis (PTSD, ADHD) that was stable was used as a means to invalidate creditability and defame my character. I behaved in the same manner outlined in this matter and self-representing resulting in the dismissal of my cases on application and on appeal in the Fair Work Commission.

80. **From:** Reece Storme Ferrara
81. **To:** Andrew.Kennedy@newmont.com
82. **Cc:** Elle.Farris@newmont.com
83. **Subject:** *Without Prejudice* Psychosocial decline
84. **Date:** Friday, 25 February 2022 1:52:59 PM
85. *without prejudice*
86. I have become overwhelmed with factors inclusive of events at Tanami and resultant financial duress that I have presented to hospital for potential inpatient admission as I have lost all hope in society for things like due process, merit, accountability, work ethic, doing the right thing...
- I did nothing wrong there. If anything I was trying to help Newmont continue to be the best company in resources sector. I was happy to hear that so many workers speak so highly of Newmont and I really respect them for this.
- I am in financial duress amongst other things and there is no help or support. I can no longer pay for my sons medical appointment let alone my own. Host have stated that Newmont won't pay for the days that I was removed from duty, which my response was it was still payable as it was a voluntary choice not to use the services I was ready willing and able to provide.
- I don't feel any resentment or malice towards Newmont as a company. I know the decision to remove me from medical duty while a worker was still medically unstable and acutely unwell was the decision of individual/s and does not reflect Newmonts way of dealing with people or contractors.
- I only wanted a job where I could help people be the best they can be and in doing so help Newmont be the best company they can be. I don't want to fight with the company particularly one who appears to treat it's workforce better than others do.
87. **From:** Andrew Kennedy
88. **To:** Reece Storme Ferrara
89. **Cc:** Elle Farris
90. **Subject:** RE: [EXTERNAL] *Without Prejudice* Psychosocial decline
91. **Date:** Monday, 28 February 2022 2:02:58 PM
92. **Attachments:** image001.png
93. image002.png
94. Dear Reece,
95. Thank you for your email. I am sorry to hear that you are feeling overwhelmed.
96. Newmont has an external counselling service that we can make available to you if you feel that talking to someone would help. The counselling service is independent of

Newmont and is confidential. Please let me know if this will assist and I will send you further details including the contact details of the counselling service.

97. Kind regards

98. Andrew Kennedy



99. GROUP EXECUTIVE, LEGAL, SUSTAINABILITY

100. AND EXTERNAL RELATIONS

101. Presentation to the emergency department on the 27th Feb 2022 and referral to daily community Mental Health Team.

102. **1317AD (2) & (2a)** A court may make an order under section 1317AE in relation to

103. **Reece Ferrara** if:

104. (a) **Matt Pascoe – HSS Superintendent & Matt Keating – CEO** is an officer or employee of **The Newmont Corporation & Host Safety And Training**; and

105. (b) paragraphs (1)(a), (b) and (c) of this section apply to **The Newmont Corporation & Host Safety And Training** because of detrimental conduct engaged in by **The Newmont Corporation & Host Safety And Training**; and

106. (c) **The Newmont Corporation & Host Safety And Training**:

107. (i) aided, abetted, counselled or procured the detrimental conduct; or

108. (ii) induced, whether by threats or promises or otherwise, the detrimental conduct; or

109. (iii) was in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the detrimental conduct; or

110. (iv) conspired with **Host Safety And Training** to effect the detrimental conduct.

111. (2A) A court may make an order under section 1317AE in relation to a person (**The Newmont Corporation**) that is a body corporate if:

112. another person (**Australian Institute Of Resources Training Pty Ltd T/A Host Safety And Training**) engages in conduct (**termination of contract and failure to pay final invoice in a timely manner**)

113. **1317ADA Detriment**

114. In sections 1317AC and 1317AD, **detriment** includes (without limitation) any of the following:

115. (a) dismissal of an employee; (Termination of contract)

116. (b) **injury of an employee in his or her employment**;

117. (c) **alteration of an employee's position or duties to his or her disadvantage**;

118. (d) **discrimination between an employee and other employees of the same employer**;

119. (e) harassment or intimidation of a person;

120. (f) **harm or injury to a person, including psychological harm**;

121. (g) damage to a person's property;

122. (h) damage to a person's reputation;
123. (i) damage to a person's business or financial position;
124. (j) any other damage to a person.
125. Safety bonuses are well known to be awarded to operations low in "work-related" injuries and illnesses in the resources and mining sector throughout Australia. Newmont and the medical professionals (paramedics) are believed to be operating in a manner that raises a conflict of interest by gaining a financial incentive of a 4.5% annual bonus by participating in the classification process of workplace injury categories to benefit the practitioners and the Newmont Corporation.
126. The **Health Practitioner Regulation National Law Act 2009** prohibits the practice of registered health professionals to conflict with the interests of the profession itself and the interests of healthcare to the public, extending to healthcare provided in a private commercial setting. It defines notifiable conduct as,
127. s 140 Definition of notifiable conduct
128. In this Division—
129. notifiable conduct, in relation to a registered health practitioner, means—
130. (d) placing the public at risk of harm by practising the profession in a way that constitutes a significant departure from accepted professional standards.
131. The act compels mandatory notifications,
132. s 141 Mandatory notifications by health practitioners other than treating practitioners
133. This section applies to a registered health practitioner (the first health practitioner) who, in the course of practising the first health practitioner's profession, forms a reasonable belief that—
134. (a) another registered health practitioner (the second health practitioner) has behaved in a way that constitutes notifiable conduct;
135. The first health practitioner must, as soon as practicable after forming the reasonable belief, notify the National Agency of the second health practitioner's notifiable conduct
136. (section 237 provides protection from civil, criminal and administrative liability for persons who, in good faith, make a notification under this Law)
137. Newmont and compromised medical professionals (paramedics) provide healthcare under a reasonably perceived conflict to the interests of their patients, the interests of the profession and the public trust at a national level. The financial interests of Newmont, who exerts management and control via hosting contractors or as an employer, provide remuneration directly or indirectly to paramedics under their direction whilst also controlling the longevity of the engagement of each paramedic at their discretion.

138. It is alleged to be dependent on complying with the financially driven directions, submitting to coercion if found not to follow the status quo or facing termination of services and blockade from returning to the site in the future. It is common for corporations to utilise the services of a Labour Hire company, taking advantage of the contractual and legal ability to circumvent the Fair Work Act 2009 through the triangular legal relationship.

139. Health Practitioner Regulation National Law Act 2009

140. **s234 General duties of persons exercising functions under this Law** subsection

141. person exercising functions under this Law must, when exercising the functions, act honestly and with integrity.

142. (2) A person exercising functions under this Law must exercise the person's functions under this Law—

143. (a) in good faith; and

144. (b) in a financially responsible manner; and

145. (c) with a reasonable degree of care, diligence and skill.

146. (3) A person exercising functions under this Law must not make improper use of the person's position or of information that comes to the person's knowledge in the course of, or because of, the person's exercise of the functions—

147. (a) to gain an advantage for himself or herself or another

148. person;

149. (b) to cause a detriment to the development, implementation

150. or operation of the national registration and

151. accreditation scheme

Sworn / Affirmed by the deponent)
at [place])
in [State or Territory])
on [date])
Before me:)

.....
Signature of deponent

.....
Signature of witness

[Name and qualification of witness]

[* Delete if inapplicable]

Instructions for completing affidavits

[These instructions do not form part of the affidavit and MUST BE DELETED before the affidavit is sworn or affirmed]

1. Each page of the affidavit (but not any annexure) must be signed by the deponent (other than a deponent who is unable to sign because of a physical disability) and the person before whom it is sworn (r29.02(7)).
2. An affidavit must be made in the first person (r 29.02(1)).
3. An affidavit must be divided into numbered paragraphs, each dealing with a separate subject, to the extent practicable (r29.02(3)).
4. If facts in the affidavit are supported by a document, annex a copy of the document to the affidavit, unless the document is an original or is of such dimensions that it cannot be annexed (r29.02(4)), in which case, it must be exhibited (r29.02(5)).
5. Each page of the affidavit, including any annexure, must be consecutively numbered starting with page 1 (r29.02(6)).
6. Attach a certificate to the first page of each annexure and exhibit. The certificate must be entitled in the same manner as the affidavit and identified by the deponent's initials followed by a number, starting with 1 (r29.02(8)). For example, the first annexure of an affidavit of James William Green would be identified as "JWG1". The second annexure would be "JWG2" and the first exhibit to that affidavit would be "JWG3". No subsequent annexure or exhibit in any later affidavit sworn by the same deponent may duplicate the number of a previous annexure or exhibit (r29.02(10)).
7. Each exhibit to an affidavit must be signed on the first page of the exhibit by the person before whom the affidavit is sworn (r29.02(11)).
8. The deponent must swear or affirm the affidavit before a person authorised by law to witness the swearing of affidavits ('witness'). Persons authorised to witness an affidavit in Federal Court proceedings are a Judge of the Court; the Chief Executive Officer and Principal Registrar; a Registrar; a District Registrar; a Deputy District Registrar authorised under s 44 of the *Federal Court of Australia Act*; a member of staff of the Federal Court authorised under s 44 of the *Federal Court of Australia Act*; a justice of the peace; a commissioner for affidavits; a commissioner for declarations; any other person who is authorised to administer oaths for the purposes of the Federal Court or the High Court or the Supreme Court of a State or Territory (includes lawyer with a current practising certificate).
9. Serve copies of all documents exhibited or annexed to an affidavit with the affidavit. (r29.05).
10. If the deponent is illiterate, see rules 29.04(1) & (5)). If the deponent is blind, see rules 29.04(2), (3) & (5)). If the deponent is incapable of signing the affidavit because of a physical disability, see rules 29.04(4) & (5)).