

**IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMON LAW DIVISION**

No. 8547 of 2009

BETWEEN

**ENVIRONMENT EAST GIPPSLAND INC**

Plaintiff

and

**VICFORESTS**

Defendant

**SIXTH AFFIDAVIT OF VANESSA ELIZABETH BLEYER**

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Date of document:	22 February 2010	
Filed on behalf of:	Plaintiff	
Bleyer Lawyers Pty Ltd		Ph: 9600 4224
Level 1, 550 Lonsdale Street		Fx: 9600 4225
Melbourne 3000		Code: 101385
Em: <a href="mailto:vanessa@bleyerlawyers.com.au">vanessa@bleyerlawyers.com.au</a>		Ref: Vanessa Bleyer

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I, **VANESSA ELIZABETH BLEYER**, Solicitor, of Level 1, 550 Lonsdale Street, Melbourne in the State of Victoria make oath and say as follows:

1. I am the Principal of the law practice Bleyer Lawyers Pty Ltd and have the care and conduct of this proceeding on behalf of the Plaintiff ("EEG"). I am authorised to make this affidavit on behalf of EEG.
2. I make this affidavit from my own personal knowledge save where otherwise stated, and in my professional capacity.
3. I refer to the affidavit sworn by me on 13 November 2009 and filed herein on behalf of EEG. The last exhibit in that affidavit is marked "VEB-26". As a result, the first exhibit in this affidavit is marked "VEB-27".
4. I refer to the affidavit sworn by Rebecca Veronica Howe on 19 February 2010 and filed herein on behalf of the Defendant ("Ms Howe's affidavit"). Paragraphs 2 to 21 inclusive and paragraph 25 of Ms Howe's affidavit refer to

*Vanessa*



and exhibit correspondence relevant to the filing of expert material by the parties in this proceeding.

5. There is correspondence passing between the parties' respective solicitors that is relevant to the filing of expert material by the parties in this proceeding which is not referred to and exhibited to Ms Howe's affidavit as follows.
6. At about 5:13pm on 3 February 2010, I sent a letter by email to the Defendant's solicitors which said, omitting the formal and irrelevant parts:

1. *We refer to paragraph 2 of our letter sent to you by email at about 11:22am on 1 February 2010 wherein we asked whether your client intends to file and serve any expert material in addition to that of Ian Ferguson.*
2. *We note that at the Directions hearing before his Honour Justice Osborn, Counsel for your client informed his Honour that Ian Ferguson was the only expert that your client would retain. In your letter sent to us on 1 February 2010, you refer to a Large Brown Tree Frog expert being retained for your client.*
3. *We look forward to receiving your response to our 1 February letter as soon as possible. Alternatively, please tell us when you expect to provide us with a response. If your client will be filing any further expert evidence, please tell us when your client intends to do so.*

Now produced and shown to me and marked "VEB-27" is a true copy of the letter.

7. At about 12:02pm on 8 February 2010, I was received a letter by email from the Defendant's solicitors which referred to the letter exhibited to this affidavit and marked "VEB-27" and said, omitting the formal and irrelevant parts:

*The expert retained by our client, Professor Ian Ferguson, is now on leave. Due to the fact that the Plaintiff was unable to comply with the order requiring it to file and serve any expert reports upon which it intended to rely at trial by 21 December 2009, Professor Ferguson was unable to deal with all of the plaintiff's expert reports in his initial report. Further, Professor Ferguson is required to give evidence before the Bushfires Royal Commission in the latter part of February 2010.*

*In these circumstances, we intend to file and serve further expert evidence in the week prior to trial.*

*Various*

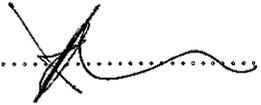


Now produced and shown to me and marked "VEB-28" is a true copy of the letter.

Sworn at Melbourne in the State of Victoria  
This 22<sup>nd</sup> day of February 2010

)  
) *Vaughan*

Before me: .....



**PHILIP LINACRE**  
Barrister & Solicitor  
Linacre Lawyers  
1/550 Lonsdale Street, Melbourne 3000  
An Australian Legal Practitioner  
within the meaning of the  
Legal Profession Act 2004

**IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
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No. 8547 of 2009

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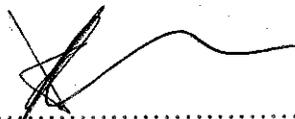
**CERTIFICATE IDENTIFYING EXHIBIT**

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Bleyer Lawyers Pty Ltd		Ph: 9600 4224
Level 1, 550 Lonsdale Street		Fx: 9600 4225
Melbourne 3000		Code: 101385
Em: <a href="mailto:vanessa@bleyerlawyers.com.au">vanessa@bleyerlawyers.com.au</a>		Ref: Vanessa Bleyer

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This is the exhibit marked **VEB-27** referred to in the affidavit of Vanessa Elizabeth Bleyer sworn before me on 22 February 2010.



**PHILIP LINACRE**  
Barrister & Solicitor  
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within the meaning of the  
Legal Profession Act 2004

**EXHIBIT VEB-27**

Letter from Bleyer Lawyers to HWL Ebsworth dated 3 February 2010

Level 1, 550 Lonsdale Street, Melbourne VIC 3000 Australia  
Tel +61 3 9600 4224 • Fax +61 3 9600 4225  
vanessa@bleyerlawyers.com.au • www.bleyerlawyers.com.au



3 February 2010

Our Ref: VEB:2009003  
Your Ref: JAK:RVH:182227

Jonathan Kramersh  
HWL Ebsworth  
21/570 Bourke Street  
MELBOURNE VIC 3000

*By email only: jonathan.kramersh@hwlebsworth.com.au*

Dear Mr Kramersh

**Environment East Gippsland v VicForests  
Supreme Court proceeding no. 8547/2009**

1. We refer to paragraph 2 of our letter sent to you by email at about 11:22am on 1 February 2010 wherein we asked whether your client intends to file and serve any expert material in addition to that of Ian Ferguson.
2. We note that at the Directions hearing before his Honour Justice Osborn, Counsel for your client informed his Honour that Ian Ferguson was the only expert that your client would retain. In your letter sent to us on 1 February 2010, you refer to a Large Brown Tree Frog expert being retained for your client.
3. We look forward to receiving your response to our 1 February letter as soon as possible. Alternatively, please tell us when you expect to provide us with a response. If your client will be filing any further expert evidence, please tell us when your client intends to do so.

Yours faithfully

A handwritten signature in dark ink, appearing to read "Vanessa Bleyer".

Vanessa Bleyer  
**Bleyer Lawyers Pty Ltd**

COMMERCIAL & CONSERVATION

**IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMON LAW DIVISION**

No. 8547 of 2009

BETWEEN

**ENVIRONMENT EAST GIPPSLAND INC**

Plaintiff

and

**VICFORESTS**

Defendant

**CERTIFICATE IDENTIFYING EXHIBIT**

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Em: vanessa@bleyerlawyers.com.au		Ref: Vanessa Bleyer

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This is the exhibit marked **VEB-28** referred to in the affidavit of Vanessa Elizabeth Bleyer sworn before me on 22 February 2010.



.....

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Barrister & Solicitor  
Linacre Lawyers  
1/550 Lonsdale Street, Melbourne 3000  
An Australian Legal Practitioner  
within the meaning of the  
Legal Profession Act 2004

**EXHIBIT VEB-28**

Letter from HWL Ebsworth to Bleyer Lawyers dated 8 February 2010

Our Ref: JAK:RVH:182227  
Your Ref: 2009003

8 February 2010

Ms Vanessa Bleyer  
Bleyer Lawyers  
Level 1, 550 Lonsdale Street  
MELBOURNE VIC 3000

By email: [vanessa@bleyerlawyers.com.au](mailto:vanessa@bleyerlawyers.com.au)

Dear Ms Bleyer

**VicForests ats Environment East Gippsland | Supreme Court of Victoria  
Proceeding Number 8547/2009**

We refer to your letter sent to us at approximately 5.14 pm on 3 February 2010.

The expert retained by our client, Professor Ian Ferguson, is now on leave. Due to the fact that the plaintiff was unable to comply with the order requiring it to file and serve any expert reports upon which it intended to rely at trial by 21 December 2009, Professor Ferguson was unable to deal with all of the plaintiff's expert reports in his initial report. Further, Professor Ferguson is required to give evidence before the Bushfires Royal Commission in the latter part of February 2010.

In these circumstances, we intend to file and serve further expert evidence in the week prior to trial.

Yours faithfully  
**HWL Ebsworth**



**Jonathan Kramersh**  
Partner

Writer: Rebecca Howe | (03) 8633 7522 |  
E-mail: [rebecca.howe@hwlebsworth.com.au](mailto:rebecca.howe@hwlebsworth.com.au)  
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DX: DX 564 Melbourne

Copied to Andrew Komesaroff:  
By email: [akomesaroff@komlegal.com](mailto:akomesaroff@komlegal.com)

Brisbane  
Melbourne  
Norwest  
Sydney