

**IN THE HIGH COURT OF AUSTRALIA  
MELBOURNE REGISTRY**

No **M19** of 2007

**B E T W E E N**

**VICKIE LEE ROACH**

Plaintiff

and

**IAN CAMPBELL, AUSTRALIAN  
ELECTORAL COMMISSIONER**

First Defendant

and

**THE COMMONWEALTH OF  
AUSTRALIA**

Second Defendant

**APPLICATION FOR AN ORDER TO SHOW CAUSE**

To: Ian Campbell, Australian Electoral Commissioner

of: Australian Electoral Commission  
West Block Offices  
Queen Victoria Terrace  
Parkes ACT 2600

And to: The Commonwealth of Australia

of: C/- The Honourable Philip Ruddock  
Attorney-General  
Attorney-General's Department  
Central Office  
Robert Garran Offices  
National Circuit  
Barton ACT 2600

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Date of document: 5 March 2007

Filed on behalf of: the Plaintiff

**Human Rights Law Resource Centre Ltd** DX 38227 Flagstaff  
Level 1 Tel (03) 9225 6695  
550 Lonsdale Street Fax (03) 9225 6686  
Melbourne VIC 3000 Ref

Contact Name: Philip Lynch

TAKE NOTICE that this application has been made by the plaintiff for the relief that is set out below on the grounds that are set out below.

IF YOU INTEND TO DEFEND the proceeding you must file a notice of appearance in the office of the Registry named above.

IF YOU ARE WILLING TO SUBMIT to any order that the Court may make, save as to costs, you may file a submitting appearance in the office of the Registry named above.

THE TIME FOR FILING AN APPEARANCE is as follows:

- (a) where you are served with the application within Australia — 14 days from the date of service;
- (b) in any other case — 42 days from the date of service.

**THE RELIEF CLAIMED is**

1. A declaration that ss 93(8AA) and 208(2)(c) of the *Commonwealth Electoral Act 1918* (Cth)(**the Act**) are invalid and of no effect.
2. A writ of prohibition preventing the First Defendant:
  - (a) for the election of Members of the Senate to be held prior to 1 July 2008 and the election for Members of the House Representatives to be held on or prior to 19 January 2008, or
  - (b) for the combined election for Members of the House of Representatives and for Members of the Senate to be held on or prior to 19 January 2008,

from relying on ss 93(8AA) and 208(2)(c) of the Act to exclude the name of the Plaintiff from the certified list of voters required to be prepared by s 208(1) of the Act.
3. A writ of mandamus requiring the First Defendant to prepare;
  - (a) for the election of Members of the Senate to be held prior to 1 July 2008 and the election for Members of the House Representatives to be held on or prior to 19 January 2008, or

- (b) for the combined election for Members of the House of Representatives and for Members of the Senate to be held on or prior to 19 January 2008,

the certified list of voters required to be prepared by s 208(1) of the Act by including, without regard to or reliance upon ss 93(8AA) and 208(c) of the Act, the name of the Plaintiff.

- 4. An injunction restraining the Second Defendant, by its officers, from acting upon or taking any step to give effect to or enforce ss 93(8AA) and 208(2)(c) of the Act;

- (a) for the election of Members of the Senate to be held prior to 1 July 2008 and the election for Members of the House Representatives to be held on or prior to 19 January 2008, or
- (b) for the combined election for Members of the House of Representatives and for Members of the Senate to be held on or prior to 19 January 2008.

**THE GROUNDS ON WHICH THE RELIEF IS CLAIMED are**

Sections 93(8AA) and 208(2)(c) of the Act

- (a) are contrary to ss 7 and 24 of the Constitution; and/or
- (b) are beyond the legislative powers of the Commonwealth conferred by ss 51(xxxvi) and 30 of the Constitution; and/or
- (c) burden one or more of the following rights or freedoms that are implied in the Constitution:
  - (i) the freedom of political participation;
  - (ii) the freedom of political communication;

and are not reasonably appropriate and adapted to serve a legitimate end in a manner which is compatible with the maintenance of the constitutionally prescribed system of representative government, and

- (d) are therefore invalid and of no effect.

This application shall be heard at the time and place stated in the summons served with this application.

This application was filed by Philip Lynch of Human Rights Law Resource Centre Ltd on behalf of the Plaintiff.

Dated: 5 March 2007

  
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Philip Lynch  
Solicitor for the plaintiffs

The Plaintiff's address for service is C/- Allens Arthur Robinson of 530 Collins Street, Melbourne Vic 3000; attention Peter O'Donahoo. Telephone 03 9614 1011, Facsimile 03 9614 4661.