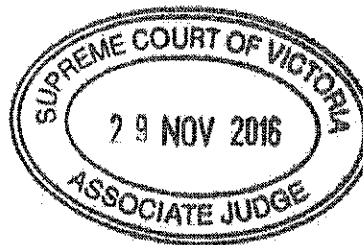


IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMON LAW DIVISION  
JUDICIAL REVIEW AND APPEALS LIST



S CI 2016 04811

**BETWEEN**

SISTER MARIE BRIGID ARTHUR (SUING  
AS LITIGATION GUARDIAN FOR ALL  
ABORIGINAL CHILDREN AGED UNDER  
THE AGE OF 18 WHO HAVE BEEN  
REPRESENTED BY THE VICTORIAN  
ABORIGINAL LEGAL SERVICE AND ARE  
CURRENTLY DETAINED IN A CENTRE  
GAZETTED UNDER SECTION 478 OF THE  
CHILDREN, YOUTH AND FAMILIES ACT  
2005 (VIC))

Plaintiffs

- and -

JENNY MIKAKOS, MINISTER FOR  
FAMILIES AND CHILDREN

First Defendant

GAYLE TIERNEY, MINISTER FOR  
CORRECTIONS

Second Defendant

STATE OF VICTORIA

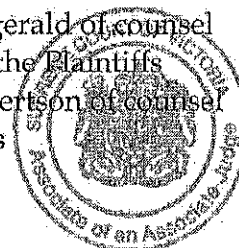
Third Defendant

KYM PEAKE, SECRETARY OF  
DEPARTMENT OF HEALTH & HUMAN  
SERVICES

Fourth Defendant

**ORDER**

JUDGE: The Hon. Associate Justice Ierodiaconou  
DATE MADE: 29 November 2016  
ORIGINATING PROCESS: Writ filed 22 November 2016  
HOW OBTAINED: On return of the summons filed 29 November  
2016  
APPEARANCES: Mr B Walters QC with Ms S Fitzgerald of counsel  
and Mr A McBeth of counsel for the Plaintiffs  
Mr R Attiwill QC with Ms A Robertson of counsel  
for the First to Fourth Defendants



Ms S Cauchi for the Victorian Equal Opportunity  
and Human Rights Commission

OTHER MATTERS:

- A. The parties have agreed to compromise this proceeding on the terms set out in this order. The names and dates of birth of the plaintiffs under disability are set out in Confidential Schedule A to this order.
- B. The fourth defendant has agreed to cause a letter to be sent by the Department of Health and Human Services to the Victorian Aboriginal Legal Service Co-operative in a form that has been agreed.
- C. The plaintiffs have agreed to forthwith discontinue this proceeding.
- D. The fourth defendant, by her senior counsel, undertakes to the Court that she will not authorise or cause the removal of any Aboriginal child to:
  - (i) any youth justice centre or remand centre established at Barwon Prison (whether under the Orders in Council dated 17 November 2016 or otherwise); or
  - (ii) any other youth justice centre or remand centre gazetted under Orders in Council that is part of, or annexed to, or adjacent to, an adult justice facility until the earlier of:
    - (a) 27 May 2018;
    - (b) further order of the Court; or
    - (c) advice received by the Secretary from the Commissioner for Aboriginal Children and Young People that the proposed removal is in the best interests of the Aboriginal child. This advice shall only be sought in exceptional circumstances and upon the Secretary providing written information as to the basis for the proposed transfer.

THE COURT ORDERS THAT:

1. The compromise of the proceeding on the terms of this order is approved pursuant to rule 15.08 of the *Supreme Court (General Civil Procedure) Rules 2015*.
2. The plaintiffs have leave to discontinue the proceeding.
3. Upon the discontinuance of the proceeding the defendants pay the plaintiffs' costs of the proceeding.

DATE AUTHENTICATED: 29 November 2016

THE HONOURABLE ASSOCIATE JUSTICE IERODIACONOU

