

Form 1 **Document title**
(rule 2.1)

IN THE FEDERAL COURT OF AUSTRALIA

No.

DIVISION: CORPORATIONS

REGISTRY: SYDNEY

IN THE MATTER OF DURAL ALLIANCES PTY LTD ACN 620 742 994

DCP LITIGATION HOLDINGS PTY LTD ACN 627 653 829

Plaintiff

DURAL ALLIANCES PTY LTD ACN 620 742 994

Defendant

Filed on behalf of DCP Litigation Holdings Pty Ltd, Plaintiff

Tel: 02 80751003

Fax: -

Email: cjsamaha@chifleylegal.com.au

Ref: CJS:CL044

Address for service:
Chifley Legal
Level 2, 9 Phillip Street
Parramatta NSW 2150

Form 59 Rule 29.02(1)

AFFIDAVIT IN SUPPORT OF APPLICATION FOR WINDING UP IN INSOLVENCYFEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: SYDNEY
DIVISION: CORPORATIONS

NO. OF 20

IN THE MATTER OF DURAL ALLIANCES PTY LTD ACN 620 742 994

DCP LITIGATION HOLDINGS PTY LTD (ACN 627 653 145)

Applicant

DURAL ALLIANCES PTY LTD ACN 620 742 994

Defendant

Affidavit of: Mark Smith

Address: 2a Beecroft Road, Beecroft NSW 2119

Occupation: Company Director

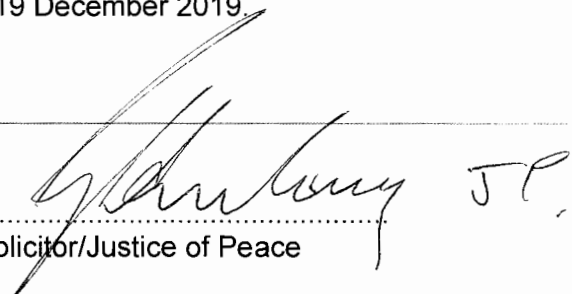
Date affirmed: 21.. December 2019

I, Mark Smith of 2a Beecroft Road, Beecroft in the State of New South Wales, a Company Director, solemnly and sincerely declare and affirm:

1. I am the sole Director of the above-named Plaintiff which is registered in New South Wales. I am duly authorised to make this affidavit on its behalf. Now produced and shown to me is a copy of the originating process to be filed in the proceeding.
2. Annexed to this affidavit and marked **MS-1** is a current and historical extract of the records maintained by the Australian Securities and Investments Commission with respect to the Defendant, obtained on 19 December 2019.



Deponent



Solicitor/Justice of Peace

Filed on behalf of (name & role of party) DCP Litigation Holdings Pty Ltd, Plaintiff

Prepared by (name of person/lawyer) Carla-Jayden Samaha

Law firm (if applicable) Chifley Legal Pty Ltd

Tel 02 8075 1003

Fax -

Email cjsamaha@chifleylegal.com.au

Address for service Level 2, 9 Phillip Street PARRAMATTA NSW 2150

3. I am familiar with the Plaintiff's accounts in relation to the Defendant and I depose to the facts contained in this affidavit from facts within my own personal knowledge save as otherwise stated.
4. The Defendant was on 16 November 2019 indebted to the Plaintiff in the sum of \$179,999.82 pursuant to clause 10.3 of deed of assignment dated on or about 5 July 2018 being 33.333% of Resolution Sum payable by reason of breach and repudiation of the deed by creditor through its lawyers on or about 8 January 2019.
5. On 16 November 2019, the demand, a copy of which is attached to the originating process, was signed by or on behalf of the Plaintiff requiring the Defendant to pay the sum referred to in paragraph 4.
6. The demand, together with an accompanying affidavit, was served on the Defendant on 18 November 2019.
7. I served the demand on the Defendant as follows:
 - a. I placed the demand and accompanying affidavit in an Australia Post pre-paid express envelope having tracking number 604 38014364 092 and sealed the envelope;
 - b. I addressed the envelope to the Defendant at 88 Perfection Avenue, Stanhope Gardens NSW 2768;
 - c. I posted the Documents by placing the envelope in the Australia Post express post mailbox located at West Pennant Hills Post Office.
8. On 18 November I conducted a search of the Australia post tracking website in relation to the demand by reference to tracking number 604 38014364092 and I observe the demand was delivered to the registered office of the Defendant on 18 November 2019.
9. A copy of the Australia Post tracking search in relation to the demand together with a copy of the pre-paid express post envelope are annexed to this affidavit and marked **MS-2**.
10. The Defendant failed to pay the amount of the debt demanded or to secure or compound for that amount to the reasonable satisfaction of the Plaintiff within 21 days after the demand was served on the Defendant.
11. The matters stated in the originating process concerning the demand and failure of the Defendant to comply with it are true and correct.
12. At the date of affirming this affidavit, the sum demanded being \$179,999.82 remains due and payable by the Defendant to the Plaintiff.

Sworn by the Deponent

at _____
in NSW
on _____
Before me:

[Handwritten signature]

Signature of witness

[Handwritten signature]

Signature of deponent

Name & qualification of witness

*DEPOSIT
NSW
21 DECEMBER
2019.*

ANNEXURE COVER PAGE

FEDERAL COURT OF AUSTRALIA
REGISTRY: SYDNEY
DIVISION: CORPORATIONS

IN THE MATTER OF DURAL ALLIANCE PTY LTD ACN 620 742 994

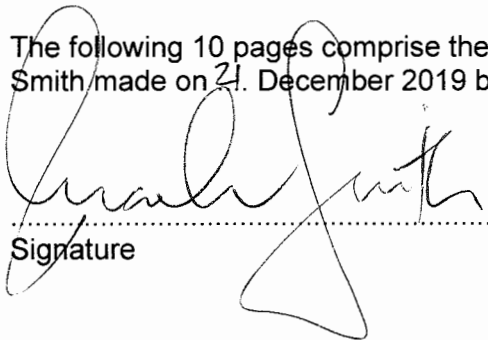
DCP LITIGATION HOLDINGS PTY LTD (ACN 627 653 145)

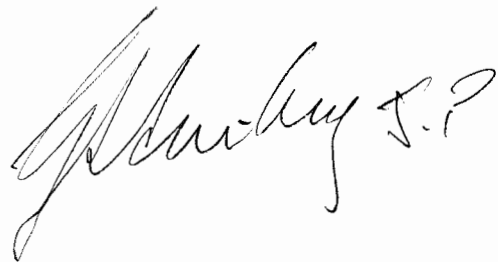
Plaintiff

DURAL ALLIANCE PTY LTD ACN 620 742 994

Defendant

The following 10 pages comprise the annexure marked MS-1 referred to in the affidavit of Mark Smith made on 21. December 2019 before me:


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Signature



ANNEXURE COVER PAGE

FEDERAL COURT OF AUSTRALIA
REGISTRY: SYDNEY
DIVISION: CORPORATIONS

IN THE MATTER OF DURAL ALLIANCE PTY LTD ACN 620 742 994

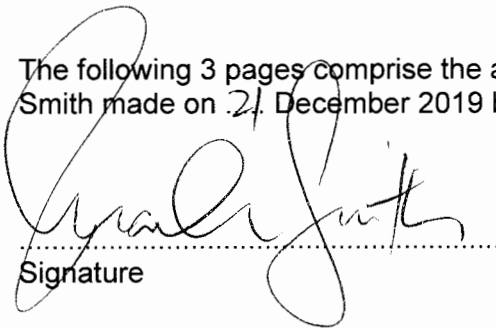
DCP LITIGATION HOLDINGS PTY LTD (ACN 627 653 145)

Plaintiff

DURAL ALLIANCE PTY LTD ACN 620 742 994

Defendant

The following 3 pages comprise the annexure marked MS-2 referred to in the affidavit of Mark Smith made on 21 December 2019 before me:



Signature



Form 2 Originating process
(rules 2.2 and 15A.3)

FEDERAL COURT OF AUSTRALIA
REGISTRY: SYDNEY
DIVISION: CORPORATIONS

No.

IN THE MATTER OF DURAL ALLIANCES PTY LTD ACN 620 742 994

DCP LITIGATION HOLDINGS PTY LTD
ACN 627 653 145
Plaintiff

DURAL ALLIANCES PTY LTD
ACN 620 742 994
Defendant

A. DETAILS OF APPLICATION

This application is made under sections 459A and 459P of the *Corporations Act 2001*.
This is an application for the winding up of a company on the ground of insolvency.
On the facts stated in the supporting affidavits, the Plaintiff claims –

1. An order that the Defendant be wound up in insolvency under the provisions of the *Corporations Act 2001*;
2. An order that a liquidator of the Defendant be appointed;
3. An order that the costs of the Plaintiff are paid out of the assets of the Defendant;

AND such further or other orders as may be just or necessary.

Date:

.....
Carla-Jayden Samaha
Chifley Legal Pty Ltd
Lawyer for the Plaintiff

Filed on behalf of the Plaintiff	DCP Litigation Holdings Pty Ltd	File Ref: CL044
Prepared by:	Carla-Jayden Samaha Chifley Legal Pty Ltd	Tel: 02 8075 1003 Email: cisamaha@chifleylegal.com.au
Address for Service:	Level 2, 9 Phillip Street Parramatta NSW 2150	

This application will be heard by at the New South Wales Supreme Court, Law Courts Building, 184 Phillip Street, Sydney, at*am/*pm on

B. NOTICE TO DEFENDANT

TO: DURAL ALLIANCES PTY LTD
ACN 620 742 994

OF: 88 PERFECTION AVENUE, STANHOPE GARDENS NSW 2768

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard, and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

Note Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY

1. The Plaintiff relies on failure by the Defendant to comply with a statutory demand issued by the Plaintiff on the Defendant (the "Demand"). A copy of the Demand and the accompanying affidavit of debt, marked **A**, is attached to this originating process.
2. The Demand and an accompanying affidavit were served by Mark Smith, who posted them by prepaid express post to the registered office of the Defendant at 88 Perfection Avenue, Stanhope Gardens NSW 2768, on 18 November 2019.

Filed on behalf of the Plaintiff	DCP Litigation Holdings Pty Ltd	File Ref: CL044
Prepared by:	Carla-Jayden Samaha Chifley Legal Pty Ltd	Tel: 02 8075 1003 Email: cjsamaha@chifleylegal.com.au
Address for Service:	Level 2, 9 Phillip Street Parramatta NSW 2150	

3. The Defendant failed to pay the amount of the debt demanded or to secure or compound for that amount to the Plaintiff's reasonable satisfaction with 21 days after the Demand was served on the Defendant.

D. FILING

Date of filing:

.....
Registrar

This Originating Process is filed by Carla-Jayden Samaha, Solicitor Director of Chifley Legal Pty Ltd, for the Plaintiff.

E. SERVICE

The Plaintiff's address for service is Level 2, 9 Phillip Street, Parramatta NSW 2150.

It is intended to serve a copy of this originating process on the Defendant at the following address:

88 Perfection Avenue, Stanhope Gardens NSW 2768

Filed on behalf of the Plaintiff	DCP Litigation Holdings Pty Ltd	File Ref: CL044
Prepared by:	Carla-Jayden Samaha Chifley Legal Pty Ltd	Tel: 02 8075 1003 Email: cjsamaha@chifleylegal.com.au
Address for Service:	Level 2, 9 Phillip Street Parramatta NSW 2150	

ANNEXURE COVER PAGE

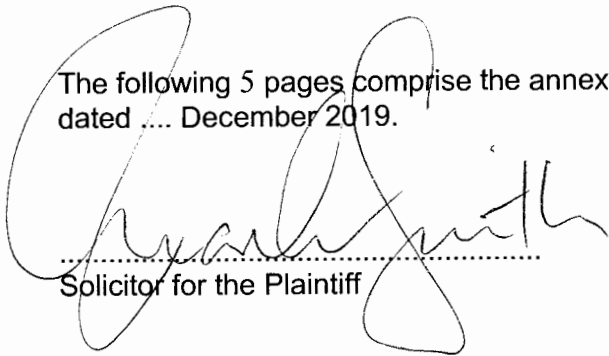
FEDERAL COURT OF AUSTRALIA
REGISTRY: SYDNEY
DIVISION: CORPORATIONS

IN THE MATTER OF DURAL ALLIANCE PTY LTD ACN 620 742 994

DCP LITIGATION HOLDINGS PTY LTD (ACN 627 653 145)
Plaintiff

DURAL ALLIANCE PTY LTD ACN 620 742 994
Defendant

The following 5 pages comprise the annexure marked "A" referred to in the Originating Process dated December 2019.



.....
Solicitor for the Plaintiff



J.T.D.

Filed on behalf of the Plaintiff DCP Litigation Holdings Pty Ltd

File Ref: CL044

Prepared by: Carla-Jayden Samaha
Chifley Legal Pty Ltd

Tel: 02 8075 1003
Email: cjsamaha@chifleylegal.com.au

Address for Service: Level 2, 9 Phillip Street
Parramatta NSW 2150
