

Form 17
Rule 8.05(1)(a)

Statement of Claim

No. VID of 2024

Federal Court of Australia

District Registry: Victoria

Division: Human Rights / Other Federal Jurisdiction

Uncle Robbie Thorpe
Applicant

The Honourable Mark Dreyfus
Respondent

THE APPLICANT

1. I am Uncle Robbie Thorpe, a Truth-Teller, Fire-Keeper and Elder, and am respectfully referred to, and deferred to, as Uncle Robbie Thorpe in Aboriginal communities and I expect and accept and invite the same respect from non-Aboriginal people with good hearts. See for example <https://www.commonground.org.au/article/guide-for-respectfully-communicating-with-elders#:~:text=Address%20Elders%20appropriately,unless%20invited%20to%20do%20so.>

THE RESPONDENT

2. The Honourable Mark Dreyfus holds high office in the entity known as “Australia” (and more formally as “The Commonwealth of Australia”) as “Attorney-General of Australia” (and more formally as “The Attorney-General of the Commonwealth of Australia”) and is often described as the first law officer of Australia. He is commissioned in the law courts of “Australia” as a senior barrister with the title of “Kings Counsel” (KC) and is elected as a “Member of Parliament” (MP) to the House of Representatives by the people eligible to vote in the electorate of Isaacs in “Victoria” and holds appointment as “Cabinet Secretary” by “the Governor-General” with a commission from “the King of Australia.” The correct way to address him is The Honourable Mark Dreyfus KC MP— see for example <https://www.govconnex.com/resources/how-to-address-members-of-parliament-in-australia> and <https://ministers.ag.gov.au/hon-mark-dreyfus-kc-mp>

Filed on behalf of Uncle Robbie Thorpe, applicant.

Prepared by Uncle Robbie Thorpe.

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THE APPLICANT AND RESPONDENT IN PERSON

3. At the hearing of these proceedings I will appear in person and I expect and formally request The Honourable Mark Dreyfus to show respect for Our Law and Our Ways by also appearing in person across the bar table. Similarly I also expect and formally request that The Honourable Mark Dreyfus have personal conduct of the respondent's case and personally sign each document and affirm each affidavit. It is the common experience of We Aboriginal People that your government ministers come and go and no-one is ever held accountable. As you must all surely know by now, We Aboriginal People do not accept the validity of your invisible government entities that you say have claimed jurisdiction over Us and Our Lands and have attempted to usurp Our Law, the Law of all lands in the continent you call "Australia". I am here now talk to you, the Honourable Mark Dreyfus, in person in your court: person-to-person.

YOUR CONSTITUTION INVOKED AFTER THE RAID ON CAMP SOVEREIGNTY

4. On Thursday 17 May 2024 I filed and served by email a notice of a Constitutional Matter on The Honourable Mark Dreyfus in proceedings in the Federal Court of Australia numbered VID388/2024 filed on Monday 13 May 2024 in which I was the so-called prospective applicant in an urgent application before the start of a proceeding.

5. The application followed a raid upon Camp Sovereignty by agents of a local government entity, "the Melbourne City Council", and sought an order against the local Mayor and Councillors to preserve Our camp and to restrain non-Aboriginal people from entering upon and destroying Our fire and Our general camp near the resting place of 38 skeletal remains of unknown Aboriginal Peoples recovered from Victorian museums and other institutions.

6. The raiding party echoed settler-colonial practices: a quasi-military unit (the Council's security team) of non-Aboriginal men unlawfully and premeditatedly and without any notice or provocation desecrating the camp and clearing the site and stealing/removing everything there—

- (i) causing serious mental harm to Us with the intent to destroy Us in whole or in part— being a long-acknowledged act of genocide under your law as well as a grave breach of Our Law.
- (ii) causing serious consequences to Us under Our Law for Our failure to fulfil Our solemn obligations under Our Law to care for country with proper observances, business and healing ceremony;
- (iii) causing serious and irreversible consequences to the health, spirit and well-being of (a) the said respondents and unit themselves and (b) their families (past, present and future) and (c) their communities and (d) to all non-Aboriginal people resident on the continent for this grave crime against Our Law, the Sovereign non-negotiable Law of this land that applies to every one and every thing here and ignorance of The Law is no excuse.

8. The said Constitutional notice was also served simultaneously by the same email upon The Honourable Jaclyn Symes MP, the “Attorney-General“ of the entity “Victoria” (and more formally as “The State of Victoria”) and every other “Attorney-General” of the “States and Territories” of Australia.

9. An affidavit of service was filed on Monday 20 May 2024 pursuant to an undertaking to the Honourable Justice Wheelahan made at the hearing of the said urgent application on Friday 17 May 2024.

YOUR CONSTITUTION STILL NEEDS CLARIFYING TO MOVE FORWARD TOGETHER

10. After proper negotiations began with the prospective respondents, I abandoned the proposed legal proceedings and we ended up at the fire at Camp Sovereignty on Tuesday 21 May 2024 in a healing smoking ceremony to begin the peace process in good faith and journey onward together.

11. The Honourable Mark Dreyfus did not appear in person at the hearing on Friday 17 May 2024 nor did he send any representative, legal or otherwise, to attend the hearing. Similarly The Honourable Jaclyn Symes neither appeared in person or by counsel.

12. The Premier of the State of Victoria, the Honourable Jacinta Allan MP, and the Minister for Treaty and First People of the State of Victoria, the Honourable Natalie Hutchins MP, were represented by the Victorian Government Solicitor’s Office (special counsel Sarah McKellar-White and Jessica Cleaver back in the office; solicitor Amanda Kearney, barristers Laura Hilly and Peter Willis SC at the bar table) but they entered no appearance for The State of Victoria.

13. None of the Attorneys-General of the States and Territories appeared or were represented. However the Assistant Solicitor-General of Tasmania, Jenny Rudolf, emailed a letter at 2.30pm on 16 May 2024 stating “The Attorney-General does not wish to intervene in the proceedings”. And the Australian Government emailed a letter (signed by Illegible Scrawl) on 16 May 2024 at about 5pm stating that ““We act for the Commonwealth Attorney-General in relation to your notice pursuant to s 78B of the Judiciary Act 1903 of a constitutional issue ... adequate notice has not been given to the Commonwealth Attorney-General to consider the issues raised in your s78B notice, as required by s 78B... while the Commonwealth Attorney-General will seek to deal with the notice expeditiously, that will not be before the hearing date tomorrow”. On 22 May 2024 the Solicitor-General of the Northern Territory, Nikolai Christrup SC, emailed a letter stating: “I advise that the Attorney-General does not intend to intervene on behalf of the Northern Territory”.

14. I seek a hearing before a bench of five judges of the Federal Court to overrule previous case law and/or provide a basis for the jurisdiction of the Office of the Prosecutor of the International Criminal Court here because Australia is unwilling and unable to investigate and prosecute genocide offences against Us. The hearing and rulings may provide a basis for UN Member States to bring a case in the International Court of Justice against Australia if Australia will not seek its own Advisory Opinion from the Court.

TWELVE CONSTITUTIONAL QUESTIONS TO CLARIFY

15. The matters set out in the said Constitutional Notice are:

1. Whether your Constitution protects Our Aboriginal campsites at Aboriginal remains from desecration by non-Aboriginal groups or individuals.
2. Whether your Constitution protects Aboriginal fires at Our Aboriginal campsites at Aboriginal remains from extinguishment by non-Aboriginal groups or individuals.
3. Whether your Constitution requires that every non-Aboriginal court provide immediate and effective protection for, and preservation of, Our Aboriginal fires at Our Aboriginal campsites at Aboriginal remains.
4. Whether your Constitution allows non-Aboriginal groups and individuals to desecrate Our Aboriginal campsites (including the extinguishment of Our Aboriginal fires) at Aboriginal remains with impunity and/or with immunity from immediate and effective court orders.
5. Whether your Constitution imposes a fiduciary obligation upon every judge to stop and prevent
 - (i) the desecration of Our Aboriginal campsites (including the extinguishment of Aboriginal fires) at Aboriginal remains;
 - (ii) the theft of any items at Our Aboriginal campsites at Aboriginal remains;
 - (iii) the theft of any of Our Aboriginal Land;
 - (iv) the usurpation of any of Our Aboriginal Law.
6. Whether your Mabo decision that no court can inquire into how “Australia” got sovereignty and jurisdiction over We Aborigines is inconsistent with your legislation in Division 268 of the Criminal Code which criminalises acts of genocide with intent to destroy Us in whole or in part.
7. Whether your denial of Our Aboriginal Sovereignty is proof of your intent to destroy us in whole or in part within the meaning of the Rome Statute of the International Criminal Court 2000 and the Genocide Convention 1948 and your Genocide Convention Act 1949.
8. Whether the sole basis for your theft of Our Lands and your usurpation of Our Law under your Constitution is your continuing acts of genocide (as defined in the three instruments in paragraph 7 above) against Us.
9. In the absence of any treaty evidencing Our free, informed prior consent, whether every bit of land in the entire continent is Aboriginal Land and Our Aboriginal Law applies to all residents here.
10. Whether your deliberate premeditated failure and refusal to negotiate for our consent in a treaty is itself an act of genocide and also proof of your intent to destroy Us

Aborigines in whole or in part contrary to the three instruments in paragraph 7 above and also Division 268 of your own Criminal Code.

11. Whether your requirement that one Mark Dreyfus, a non-Aboriginal individual, is the only person who can bring prosecutions for Aboriginal genocide is itself an act of genocide and also proof of your intent to destroy Us Aborigines in whole or in part contrary to the three instruments in paragraph 7 above and also Division 268 of your own Criminal Code.

12. Whether it is implicit in your Constitution that no legislation can be valid that allows legitimises attempts incites conspires aids abets Aboriginal genocide.

Date: 24 May 2024

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This pleading was prepared by Uncle Robbie Thorpe.