

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged: Originating Application - Form 15 - Rule 8.01(1)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 28/03/2023 4:48:21 PM AEDT  
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File Number: NSD282/2023  
File Title: COMMISSIONER OF THE NDIS QUALITY AND SAFEGUARDS  
COMMISSION v LIVEBETTER SERVICES LIMITED  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: To Be Advised  
Time and date for hearing: To Be Advised  
Place: To Be Advised



*Sia Lagos*

Registrar

### Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 15  
Rules 8.01(1); 8.04(1)



## Originating application

No. of 2023

Federal Court of Australia  
District Registry: New South Wales  
Division: General

### COMMISSIONER OF THE NDIS QUALITY AND SAFEGUARDS COMMISSION

Applicant

### LIVEBETTER SERVICES LIMITED (ACN 160 259 512)

Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

#### Time and date for hearing:

**Place:** Federal Court of Australia  
Law Courts Building  
184 Phillip St  
Queens Square, Sydney, NSW 2000

Date:

Signed by an officer acting with the authority  
of the District Registrar

Filed on behalf of (name & role of party)	Commissioner of the NDIS Quality and Safeguards Commission, Applicant		
Prepared by (name of person/lawyer)	Rebecca Jaffe		
Law firm (if applicable)	HWL Ebsworth Lawyers		
Tel	+61 3 8644 3500	Fax	1300 365 323
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<b>Address for Service</b>	<b>HWL EBSWORTH LAWYERS</b> Level 8, 447 Collins Street, Melbourne VIC 3000 DX 564 MELBOURNE Email: rjaffe@hwle.com.au		



## Details of claim

On the grounds stated in the Applicant's Concise Statement, the Applicant claims:

1. A declaration that on each occasion that the Respondent (**LiveBetter**) provided bathing supports to Ms Lucas between 5 April 2021 and 2 February 2022, LiveBetter contravened s 73J of the *National Disability Insurance Scheme Act 2013* (Cth) (the **Act**) because LiveBetter failed to comply with:
  - (a) clause 10 of Part 3 of the NDIS Practice Standards, in that LiveBetter did not identify and manage the risks to Ms Lucas; and
  - (b) clause 21 of Part 4 of the NDIS Practice Standards, in that LiveBetter did not provide Ms Lucas with access to competent and appropriate supports to meet her needs.
2. In the alternative to order 1, a declaration that in providing bathing supports to Ms Lucas on 2 February 2022, LiveBetter contravened s 73J of the Act because LiveBetter failed to comply with:
  - (a) clause 10 of Part 3 of the NDIS Practice Standards, in that LiveBetter did not identify and manage the risks to Ms Lucas; and
  - (b) clause 21 of Part 4 of the NDIS Practice Standards, in that LiveBetter did not provide Ms Lucas with access to competent and appropriate supports to meet her needs.
3. A declaration that on each occasion that LiveBetter provided bathing supports to Ms Lucas between 5 April 2021 and 2 February 2022, LiveBetter contravened s 73V of the Act because LiveBetter failed to comply with the NDIS Code of Conduct, in that it did not provide supports and services in a safe and competent manner, with care and skill.
4. In the alternative to order 3, a declaration that in providing bathing supports to Ms Lucas on 2 February 2022, LiveBetter contravened s 73V of the Act because LiveBetter failed to comply with the NDIS Code of Conduct, in that it did not provide supports and services in a safe and competent manner, with care and skill.
5. An order that LiveBetter pay the Commonwealth pecuniary penalties pursuant to s 82(3) of the *Regulatory Powers (Standard Provisions) Act 2014* (Cth), read with s 73ZK of the Act.
6. Costs.



7. Such other orders as the Court thinks fit.

**Applicant's address**

The Applicant's address for service is:

Place: HWL Ebsworth Lawyers

Level 8, 447 Collins Street

Melbourne VIC 3000

Email: [rjaffe@hwle.com.au](mailto:rjaffe@hwle.com.au)

The Applicant's address is Level 1, 121 Henry Street, Penrith, New South Wales.

**Service on the Respondent**

It is intended to serve this application on the Respondent.

Date: 28 March 2023

A handwritten signature in blue ink, appearing to be "RJ", written over a horizontal dotted line.

Signed by Rebecca Jaffe  
Lawyer for the Applicant