Statement of claim in respect of death of worker

In the District Court of New South Wales
Coal Miners Compensation List

Statement of Claim

(if amended application precede with first, second, etc. as applicable and add matter number to heading)
in respect of the death of a worker, seeking an original award under the Workers Compensation Act 1987

Note: If this is an amended application, information that has been added or varied must be clearly identified by being italicised or underlined.

Deceased Person

Given names:

Family name:

Date of birth:

Sex:

Address:

Defendant (Employer details)

Name:

Address:

Defendant's Insurer

Name:

Claim number (if known):

Address:

Postcode:

Period of insurance (if all of the relevant period state 'whole'):

Repeat Insurer details for each insurer of the employer that is relevant to this application.
Then repeat Employer and Insurer details for each other employer involved, nominating the first mentioned employers as 'First Defendant' and so on.
For uninsured periods state 'uninsured' and the period of non-insurance.
Note well: In uninsured cases, the WorkCover Authority must also be a defendant to the application - see below.

Second (or as the case may be) **Defendant** - use only for cases where the employer was uninsured for relevant period.
Where there is more than one defendant, the first should be described as First Defendant and additional defendants should be numbered consecutively.

Name: WorkCover Authority of New South Wales

Address: 60-70 Elizabeth Street, Sydney 2000

Why is it believed that the employer was uninsured?

Third (or as the case may be) **Defendant** - use only where an additional defendant in required e.g. where there is a person other than the plaintiff who claims to be or may be entitled to claim to be a dependant.

Given names:

Family name:

Address:

Reason for joining the defendant:

Plaintiff

Given names:

Family name:

Address:

Capacity of the plaintiff (e.g. dependant):

Plaintiff's Solicitor

Firm name:

Solicitors name:

DX:

Reference:

Telephone:

Fax:

Address for service (not DX):

Application is hereby made, particulars of which are set out herein, for the determination of the liability of, and amount of compensation payable by, the Defendant(s).

Where orders are sought in Uninsured Liability & Indemnity Scheme matters, modify the above order to include and application for an award –

a) Declaring that the First (or as the case may be) Defendant was not insured as required by the Act at the time of the Plaintiff's injury.
b) Ordering the Second (or as the case may be) Defendant to cause payment of the compensation and costs awarded against the First Defendant to be made out of the WorkCover Authority Fund established under section 34 of the Workplace Injury Management and Workers Compensation Act 1989.
c) Ordering the First (or as the case may be) Defendant to reimburse the WorkCover Authority such amount or amounts as may be paid out of such Fund in respect of the compensation and costs awarded against the First Defendant and in respect of the costs of the Second Defendant.

Where orders are to be sought under section 162, modify the above order to include an application –
For a declaration that the (name of the defendant employer) entered a contract with (name of insurer) in respect of the employer's liability under the Act to the worker and that the employer has died (or, "is permanently resident outside the Commonwealth of Australia and its Territories" or as the case may be).

Signature (Solicitor for the Plaintiff)

Notice to the Defendant(s)

You are liable to have an Award for the compensation claimed or other order made against you unless, within 28 days after service of the Statement of Claim upon you, you file a Defence in the Registry of the Court and you comply with the Rules of the Court in defending this claim.

Registrar of the Court

Listing Information

A.
State the desired venue for the hearing:
(Courts available – Sydney, Katoomba, Newcastle or Wollongong)

B.
State day or days of the week desired for the hearing:
(Available days - any day, Monday to Friday)

C.
State whether the application involves the following: (delete below where not applicable)
- Section 83 - manner of payment of compensation
- Section 85 - payment to the WorkCover Authority for the benefit of beneficiaries.

Particulars

Where there is more than one defendant employer, the following particulars are to be on separate sheets for each defendant employer headed Schedule A, etc, with each schedule commencing with "Particulars of Application in relation to the First (or as the case may be) Defendant.

1.
a) Date of injury (if over a period of time, state the period as accurately as possible):

b) Place where the injury happened:

c) What work was being done at the time of injury?

d) How did the injury occur?

2.
Date and cause of death:

3.
Particulars of compensation claimed (Fill in below)

a) Lump sum $

b) $ per week, under section

c) Other (specify):

d) Interest:

4.
a) Date of notice of injury:

b) Date of notice of incapacity given:

c) Date of claim for compensation:

d) Reason for the omission of any notice:

5.
a) Was the deceased directly employed by the defendant employer?

b) If yes, nature of the deceased's employment at the time of injury:

c) If no, how is defendant alleged to be liable for compensation:

d) Nature of work undertaken by the deceased, if the defendant employer was not the direct employer:

6.
Deceased's average weekly earnings:

7.
Where the death was due to a disease contracted by a gradual process, the names and address of all other employers by whom the deceased was employed during the twelve months previous to date of incapacity in any employment to the nature of which the disease was due:

8.
Name, date of birth and relationship to deceased of each person alleged to be dependant upon the deceased and the extent of the alleged dependancy:

Note - Further particulars may be appended
Particulars must be given of any other facts alleged, failure to give which may take the defendant by surprise