

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE  
MAJOR TORT LIST

No. SC I 2018 / 02367

BETWEEN

Hive & Wellness Australia Pty Ltd (ACN: 009 686 435) (formerly Capilano Honey Limited  
(ACN:009 686 435))

Ben McKee

Plaintiffs

-and-

Simon Mulvany

Defendant

AFFIDAVIT

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Date of Document: 11 November 2019  
Filed on behalf of: Simon Mulvany  
Prepared by: Simon Mulvany

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*Simon Mulvany*

I, Simon Mulvany of 8 Melibee Street, Blairgowrie, Victoria, *beekeeper* gardener / single parent,  
make oath and say *or* affirm:

1. I am the self-represented defendant in this proceeding. *91*
  
2. I engaged the following laboratory and scientist to test honey on Australian supermarkets including Hive and Wellness Allowrie branded honey:
  - a) German Laboratory QSI; *and*
  - b) Professor Brian Hibbert.

*S.M.*

3. Now exhibited to me and marked "SM-1" is a copy of the German Laboratory QSI test results addressed to my former solicitor David Barrow which confirms the Hive and Wellness subsidiary branded Allowrie honey was adulterated.

**Quality Services International GmbH**  
**Test Report No. 210-409706**



QSI GmbH - Flughafendamm 9a - D-28199 Bremen

AAV Legal  
David Barrow  
63/135 Cardigan Street  
3053 Carlton  
AUSTRALIA

Date: 23-Jul-2019

<b>Customer No.:</b>	<b>13428</b>	<b>Sample No.:</b>	<b>185245</b>
<b>Product:</b>	Honig/Honey		
<b>Label: Sample A05, Brand Name: Allowrie, Product Name: Allowrie Mixed Blossom Pure Honey, Pack Size: 400g Upside down squeezezy, Packed: in Australia from at least 30% Australian ingredients, Batch: PKD Q 17/07/2018 09:27, Barcode: 9300677008332</b>			
<b>Arrival Date:</b>	03-Jul-2019	<b>Start / End of Analysis:</b>	19-Jul-2019 / 23-Jul-2019
<b>Kind:</b>	Mixed Blossom	<b>Packaging:</b>	Original retail
<b>Seal:</b>	unverletzt/intact	<b>Temp.:</b>	RT

**Conclusion:**

Based on the current Honey-Profiling<sup>TM</sup> database of Bruker BioSpin GmbH and our expert interpretation the NMR profile shows, that the investigated sample is verfälscht/adulterated compared to authentic honey as defined by Annex I No. 1 EU Honey Directive 2001/110. Based on the current Honey-Profiling<sup>TM</sup> database of Bruker BioSpin GmbH and our expert interpretation the NMR profile is untypisch/untypical for honey as defined by Annex II EU Honey Directive 2001/110.

Quality Services International GmbH

Version 0

Gudrun Beckh  
Test Manager  
Biologist

4. Now exhibited to me and marked "SM2" is a copy of German Laboratory QSI's response to my queries confirming that NMR is an effective way of testing whether the honey has been adulterated.

S.M.

5. I have provided copies of the complete test results to Hive and Wellness and the ACCC for it to determine whether Capilano (now "Hive & Wellness") were within the law to continue selling Allowrie honey after it was revealed by QSI labs to be adulterated.

The contents of this affidavit are true and correct and I make it knowing that a person making a false affidavit may be prosecuted for the offences of perjury.

Sworn or Affirmed at BLAIR GOWRIE

in the State of Victoria on 11 NOVEMBER 2019

[signature of person swearing or affirming the affidavit contents, to be signed in front of the authorised affidavit taker]

Before me,



Simon Mulvany

Simon Mulvany

on 11 NOVEMBER 2019

PETER STUART MEEKING O.A.M., J.P.  
REGISTRATION No. 10117  
8 ELLESMERE STREET  
BLAIRGOWRIE 3942

[name, statement of the capacity in which the authorised affidavit taker has the authority to take the affidavit, and personal or professional address in legible writing, typing or stamp]

A person authorised under section 19(1) of the Oaths and Affirmations Act 2018 to take an affidavit.



S.M.