

**IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMERCIAL COURT
GROUP PROCEEDING LIST**

S ECI 2020 04505

BETWEEN

NICHOLAS JOHN GEHRKE

First plaintiff

LESTER BUCH

Second plaintiff

and

NOUMI LIMITED (ACN 002 814 235)

First defendant

DELOITTE TOUCHE TOHMATSU (A FIRM) (ABN 74 490 121 060)

Second defendant

ORDER

JUDGE:	The Honourable Justice Nichols
DATE MADE:	8 November 2022
ORIGINATING PROCESS:	Writ filed 7 December 2020
HOW OBTAINED:	By the plaintiffs' summons dated 31 August 2022
ATTENDANCE:	Mr A Pound SC with Ms E Levine of counsel for the joint plaintiffs Ms J Findlay of counsel for the first defendant Ms W Harris KC with Mr A Roe for the second defendant
OTHER MATTERS:	The dates mentioned in orders 7 and 8 will be fixed upon the approval of the materials described in order 6.

THE COURT ORDERS THAT:

- 1 The legal costs payable to the solicitors for the plaintiffs and group members, Slater and Gordon Limited and Phi Finney McDonald Pty Limited, be calculated as a percentage of the amount of any award or settlement that may be recovered in the proceeding (up to the conclusion of the trial of common issues), with such payment to be shared equally between the two firms of solicitors.



- 2 Subject to further order, the percentage referred to in order 1 above be 22% inclusive of GST.
- 3 Liability for payment of the legal costs pursuant to orders 1 and 2 be shared among the plaintiffs and all group members.
- 4 The solicitors for the plaintiffs and group members, Slater and Gordon Limited and Phi Finney McDonald Pty Limited, be liable to pay any costs payable to the defendants in the proceeding, with each firm of solicitors being severally liable for 50% of such costs.
- 5 The solicitors for the plaintiffs and group members, Slater and Gordon Limited and Phi Finney McDonald Pty Limited, be liable to give any security for the costs of the defendants in the proceeding that the Court may order to be given, with any such security to be given in equal proportions by the two firms of solicitors.
- 6 By **25 November 2022** the plaintiffs provide to the Court for approval:
- (a) a revised group proceeding summary statement;
 - (b) a revised funding information summary statement;
 - (c) a notice to group members that sets out an explanation of the orders made on 8 November 2022 under s 33ZDA of the *Supreme Court Act 1986* (Vic) and if applicable, any impact on the existing funding and/or retainer agreements affecting group members.
- 7 By a date to be fixed, the plaintiffs make available on their website by a date to be fixed, the approved revised group proceeding and funding information summary statements described in order 6.
- 8 By a date to be fixed, the solicitors for the plaintiffs are to provide a copy of the notice described in order 6(c) to all group members who at the date of these orders:
- (a) have executed a conditional legal costs agreement with Slater and Gordon Limited;
 - (b) have executed a conditional legal costs agreement with Phi Finney McDonald Pty Limited; or



(c) have completed an application form to join the Freedom Foods Group Litigation Funding Scheme (ARSN 646 754 378) (Scheme).

9 The plaintiffs bear their own costs of and incidental to the Group Costs Order Application.

10 The defendants' costs of and incidental to the Group Costs Order Application be reserved.

DATE AUTHENTICATED: 17 November 2022



The Honourable Justice Nichols