

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMERCIAL COURT
GROUP PROCEEDINGS LIST

S ECI 2020 02853

BETWEEN

TRACY-ANN FULLER
(and **another** according to the Schedule)

Plaintiffs

and

ALLIANZ AUSTRALIA INSURANCE LIMITED (ACN 000 122 850)
(and **another** according to the Schedule)

Defendants

ORDER

JUDGE: The Honourable Justice Nichols
DATE MADE: 17 February 2023
ORIGINATING PROCESS: Writ filed 23 September 2022
HOW OBTAINED: At mention
ATTENDANCE: Mr D Fahey, counsel for the plaintiffs
Mr P Holmes, counsel for the defendants
OTHER MATTERS: Late opt out requests

- A Pursuant to s 33J of the *Supreme Court Act 1986 (Vic)* the Court fixed 15 April 2022 as the date by which group members may opt out of this proceeding.
- B The Court has continued to receive opt out notices and applications after that deadline and up until the date of these orders (**late opt out requests**). These orders concern late opt out requests that remain outstanding.
- C By these orders, the persons listed in Annexures A, B and C from whom the Court has received

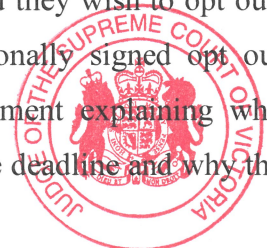


late opt out requests, are permitted to opt out of the proceedings.

D The persons named in Annexure A are permitted to opt out of the proceeding because, as at the date of these orders, they each submitted an application or notice to the Court directly or through a lawyer appointed to act for them that: (i) was in writing; (ii) was personally signed by the group member; (iii) set out adequate reasons why the group member did not file an opt out notice by the deadline and why the group member says that the Court should make an order permitting the group member to opt out.

E Some group members (who are not listed in Annexures A, B or C) have communicated to the Court a desire to opt out of the proceeding (directly or through a third party) but they have not, as at the date of these orders, submitted a personally signed opt-out notice supported by an adequate statement of reasons why the group members did not opt out by the deadline. Some of those group members made applications by submitting a template provided by a third party refund facilitator which set out generic reasons and did not appear to address the particular circumstances of the group member.

F The group members mentioned in sub-paragraph E, will be given a further opportunity to opt out of the proceeding. Should they wish to opt out, they must submit a personally signed opt out notice, with a brief statement explaining why they did not opt out by the deadline and why the



Court should permit them to opt out. The statement must be in the form of a statutory declaration. Those documents may be submitted to the Court by email at commercialcourt@supcourt.vic.gov.au. The Court will individually advise those group members of that requirement.

G If a group member purchased a “Non-PDS Extended Warranty product”, there is presently a separate opt out process underway pursuant to the Court’s orders of 21 December 2022, which applies only to those NPDS Extended Warranty group members. The deadline for that opt-out process is 17 March 2023, fixed by an order of the Court made under s 33J of the Supreme Court Act. Only valid opt out forms submitted by NPDS Extended Warranty group members, or lawyers appointed to act on their behalf, will be accepted by the Court up until the deadline of 17 March 2023.

H Unless a group member purchased a “Non-PDS Extended Warranty product”, any late applications to opt out must be submitted in accordance with Order 2 of these orders. Any application must include a personally signed opt-out notice, and a brief statement of reasons why the group member did not opt out by the deadline and why they should be permitted to opt out. The statement of reasons must be in the form of a statutory declaration. The documents may be submitted to the Court by email at commercialcourt@supcourt.vic.gov.au.



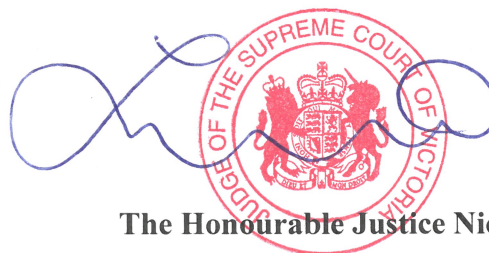
Opt out requests before 15 April 2022 opt out deadline

- I The persons listed in Annexure B are permitted to opt out of the proceedings pursuant to these orders because they contacted the Defendants seeking to opt out of these proceedings prior to the orders of the Court dated 20 December 2021 being made. They are taken to have opted out within time.
- J The persons listed in Annexure C are permitted to opt out of the proceedings pursuant to these orders because they submitted an opt out notice to the Defendants during the opt out period and prior to the 15 April 2022 opt out deadline.

THE COURT ORDERS THAT:

- 1 Pursuant to s 33J(3) and s 33KA of the *Supreme Court Act 1986* (Vic), the date by which the group members listed in Annexures A, B and C are permitted to opt out of this proceeding is extended, and those persons cease to be group members in this proceeding.
- 2 Any application made by a group member pursuant to s 33J(3) of the *Supreme Court Act 1986* (Vic) to extend the date by which they are permitted to opt out of the proceeding, made after the date of these orders:
 - (a) Must include a personally signed opt-out notice; and
 - (b) Must include a brief statement of reasons why the group member did not opt out by the deadline and why the group member should now be permitted to opt out, in the form of a statutory declaration.

DATE AUTHENTICATED: 22 February 2023



The Honourable Justice Nichols

SCHEDULE OF PARTIES

TRACY-ANN FULLER

First plaintiff

and

JORDAN WILKINSON

Second plaintiff

and

ALLIANZ AUSTRALIA INSURANCE LIMITED (ACN 000 122 850)

First defendant

and

ALLIANZ AUSTRALIA LIFE INSURANCE LIMITED (ACN 076 033 782)

Second defendant

