

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
GROUP PROCEEDINGS

S ECI 2020 01834

IN THE MATTER

BETWEEN:

JAMAL SALEM IN HER CAPACITY AS EXECUTOR FOR
THE ESTATE OF ANWAR SALEM

Plaintiff

- and -

UBER TECHNOLOGIES INC and others (according to the
Schedule of Parties)

Defendants

GENERAL FORM OF ORDER

JUDGE: The Honourable Justice Matthews

DATE MADE: 19 April 2024

ORIGINATING PROCESS: Writ filed on 20 April 2020

HOW OBTAINED: At the directions hearing on 19 April 2024

APPEARANCES: Ms M Szydzik SC and Ms A Staker of counsel for the
Plaintiff
Madeleine Ellicott of counsel for the Defendants
Mr De Young KC for the Harbour Fund III, L.P (the
funder), with leave

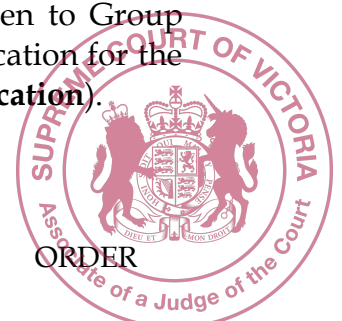
OTHER MATTERS:

A. This Order is authenticated by the Judge pursuant to Rule 60.02(1)(b) of the
Supreme Court (General Civil Procedure) Rules 2015 (Vic) (Rules).

THE COURT ORDERS THAT:

Notice to Group Members of Proposed Settlement

1. Pursuant to ss 33X(4) and 33Y(1) of the *Supreme Court Act 1986 (Vic)* (the **Act**), the form and content of the notice set out in Annexure A to these orders and the accompanying Notice of Objection form set out in Annexure B to these orders (together, the **Notice**) is approved as the notice that must be given to Group Members under s 33X(4) of the Act in respect of the approval application for the proposed settlement of the proceeding (**Settlement Approval Application**).



2. Pursuant to ss 33X(4) and 33Y(1) of the Act, the form and content of the notice set out in Annexure C to these orders (the **Abridged Notice**) is approved as the abridged form of the Notice.

Timing and Mode of Distribution of Notice

3. Pursuant to s 33Y(2) of the Act, the Notice is to be distributed to Group Members by **4.00pm on 7 May 2024** in accordance with the following procedure:
- (a) the solicitors for the Plaintiff (**Maurice Blackburn**) shall cause the Notice and the Abridged Notice, to be sent to each Registered Group Member, as defined in order 5 of the Orders dated 21 July 2023:
 - (i) by email to the last known email address held by Maurice Blackburn with respect to each Registered Group Member; or
 - (ii) where no email address is held by Maurice Blackburn, by post to the last known mailing address held by Maurice Blackburn with respect to each Registered Group Member.
 - (b) Maurice Blackburn shall cause a link to the Notice and the Abridged Notice to be posted on Maurice Blackburn's social media accounts;
 - (c) Maurice Blackburn shall cause the Abridged Notice to be translated into Greek, Chinese, Italian, Hindi, Bengali and Arabic (the **Translated Abridged Notices**);
 - (d) Maurice Blackburn shall cause a copy of the Notice to be placed on its website (<https://www.mauriceblackburn.com.au/uber>), together with a copy of:
 - (i) the Notice of Objection referred to in order 17 (being Annexure B to these orders) below;
 - (ii) the Abridged Notice referred to in order 2 above and the Translated Abridged Notices referred to at (c) above;
 - (iii) the Schedule B Notice referred to in order 5 below;
 - (iv) the Fourth Further Amended Statement of Claim filed on 19 June 2023;
 - (v) the Second Further Amended Defence filed on 8 September 2023; and
 - (vi) these orders (being the **Initial Orders**),and Maurice Blackburn shall cause such materials to remain continuously so displayed or available on its website up to and including the final hearing and determination of the Settlement Approval Application.
 - (e) The Notice, Abridged Notice and a copy of these orders will be displayed or made available on the Court's website up to and including the final hearing and determination of the Settlement Approval Application.
 - (f) The Court's website will contain a link and direct Unregistered Group Members to the Online Portal referred to in order 8 below, which



Unregistered Group Members will be able to access from
www.mauriceblackburn.com.au/uber

4. The Notice, Abridged Notice and/or the Notice of Objection may be amended by Maurice Blackburn before they are emailed, posted or displayed (as the case may be) in order to correct any website or email address or telephone number or other non-substantive, typesetting or typographical error.

Notice to Western Australian Schedule B Plaintiffs

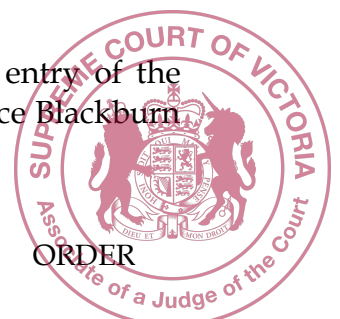
5. Pursuant to ss 33X(5) and 33Y(1) of the Act, the form and content of the notice set out in Annexure D to these orders (**Schedule B Notice**) is approved as the notice to be given to those group members who are plaintiffs identified in Schedule B to the statement of claim dated 6 October 2020 in *Rosengrave v Uber Technologies Inc*, being proceeding CIV/2013/2020 in the Supreme Court of Western Australia (**Schedule B Plaintiffs**).
6. Pursuant to s 33Y(2) of the Act, by **4.00pm on 7 May 2024**, Maurice Blackburn shall cause the Schedule B Notice to be sent to each Schedule B Plaintiff:
 - (g) by email to the last known email address held by Maurice Blackburn with respect to that person; or
 - (h) where no email address is held by Maurice Blackburn, by post to the last known mailing address held by Maurice Blackburn with respect to that person.
7. The Schedule B Notice may be amended by Maurice Blackburn before it is emailed, posted or displayed (as the case may be) in order to correct any website or email address or telephone number or other non-substantive, typesetting or typographical error.

Online Portal for Unregistered Group Members

8. By **4.00pm on 7 May 2024** Maurice Blackburn is to make available on its website an online portal for the purpose of collecting the contact details of any person who is not a Registered Group Member (**Unregistered Group Member**) who wishes to participate in the settlement (**Online Portal**).
9. Pursuant to ss 33X(5) and 33Y(1) of the Act, the form and content of the text set out in Annexure E to these orders (**Portal Text**) is approved as the text to be displayed on the first page of the Online Portal.
10. The Portal Text may be amended by Maurice Blackburn at any time in order to correct any website or email address or telephone number or other non-substantive, typesetting or typographical error.

Communication to Unregistered Group Members

11. Pursuant to ss 33X(5) and 33Y(1) of the Act, the form and content of the communication set out in Annexure F to these orders (**Communication**) is approved as the further notice to be given to any Unregistered Group Member who enters their details into the Online Portal.
12. Pursuant to s 33Y(2) of the Act, as soon as practicable following entry of the Unregistered Group Member's details into the Online Portal, Maurice Blackburn



is to cause the Communication, the Notice and the Abridged Notice to be sent to the Unregistered Group Member by email where an email address is available, or where an email address is not available, by post.

13. The Communication may be amended by Maurice Blackburn before it is emailed or posted (as the case may be) in order to correct any website or email address or telephone number or other non-substantive, typesetting or typographical error.

Costs of giving notice

14. The costs in connection with the giving of notices to Group Members and the costs of and incidental to the procedure set out in order 3, 6, 8 and 12 above (including, for the avoidance of doubt, answering enquiries by Group Members and members of the public in relation to the notices and/or this proceeding) shall be costs in the proceeding.

Settlement distribution scheme

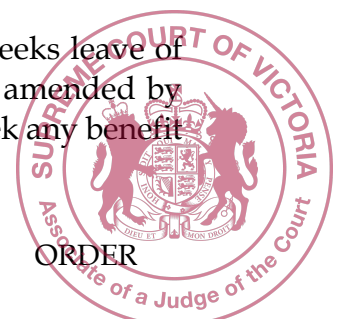
15. By **4.00pm on 4 June 2024**, Maurice Blackburn is to make the Plaintiff's proposed Settlement Distribution Scheme, being the proposed scheme for the allocation of the settlement monies to group members and Maurice Blackburn (**Scheme**), available on its website.

Funder has leave to appear

16. The funder of the proceeding, Harbour Fund III, L.P (**Harbour**) has leave to appear in relation to the Settlement Approval Application.

Timetabling orders for Settlement Approval Application

17. Pursuant to s 33ZF, by **4.00pm on 2 July 2024** any group member who wishes to oppose any aspect of the proposed settlement shall submit a completed Notice of Objection in the form of Annexure B to these orders and evidence (by way of affidavit) on which the group member intends to rely in support of the Notice of Objection, together with any written submissions (of no longer than 2 pages in length), by email to:
 - (i) the Supreme Court of Victoria, Principal Registry – uberclassactions@supcourt.vic.gov.au; and
 - (j) Maurice Blackburn at uber@mauriceblackburn.com.au.
18. If Maurice Blackburn receives a notice which purports to be a Notice of Objection, they shall provide such notice to the Court within two (2) business days of receipt, and such a notice shall be treated as a Notice of Objection received by the Court at the time it was received by Maurice Blackburn.
19. The parties' solicitors and Harbour's solicitors have leave to inspect the Court file and to copy any Notices of Objection filed with the Court.
20. By **4.00pm on 5 July 2024**, Maurice Blackburn shall provide to the Defendants' and Harbour's solicitors a copy of any documents received pursuant to orders 17 and 18 above.
21. By **4.00pm on 2 July 2024**, any Unregistered Group Member who seeks leave of the Court pursuant to order 7 of the Orders dated 21 July 2023 (as amended by order 12 of the Orders dated 13 February 2024) to be permitted to seek any benefit

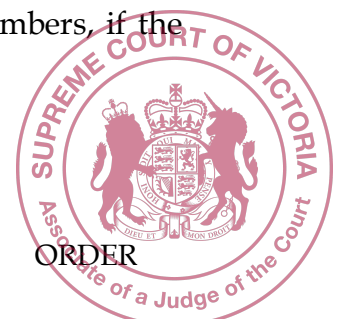


pursuant to the proposed settlement must identify the basis on which leave ought be granted and provide evidence (by way of affidavit) in support of the application for leave, and any written submissions (of no more than 2 pages in length), by email to Maurice Blackburn at uber@mauriceblackburn.com.au.

22. By **4.00pm on 5 July 2024**, Maurice Blackburn shall provide to the Court, the Defendants' and Harbour's solicitors a copy of any documents received from an Unregistered Group Member pursuant to order 21 above seeking leave to participate in the settlement.
23. The matter be listed for further directions at **10.00am on 25 July 2024**.
24. Save for any affidavit or written submissions in respect of which confidentiality orders will be sought (respectively, **Confidential Affidavit** and **Confidential Submissions**), by **4.00pm on 9 August 2024**, the Plaintiff, the Defendants and Harbour shall file and serve any affidavit(s) and written submissions on which they seek to rely in relation to the Settlement Approval Application.
25. By **4.00pm on 9 August 2024**, the Plaintiff and Harbour are to provide any Confidential Affidavit and/or Confidential Submissions, including in respect of legal costs, on which they propose to rely in relation to the Settlement Approval Application to the chambers of the Honourable Justice Matthews by email marked "*Confidential [Affidavit or Submissions] for Purposes of Settlement Approval Application – Not to be Accessed Except by Direction of a Judge of the Court*".
26. The Settlement Approval Application be listed for hearing at **10.00am on 9 September and 10 September 2024**.

Independent Costs Referee

27. Pursuant to s 33ZF of the Act and/or r 50.01 of Rules, Cate Dealehr (**Referee**) is appointed as a special referee for the purpose of conducting an inquiry (**Reference**) and making a report in writing to the Court (**Report**) stating, with reasons, the Referee's opinion on the following questions:
 - (k) the reasonableness of the Plaintiff's legal costs and disbursements incurred in relation to the proceeding, up to and including the hearing of the Settlement Approval Application (including costs anticipated and yet to be incurred as at the date of the Report); and
 - (l) the reasonableness of the sum proposed for settlement administration costs.
28. The Referee is to deliver the Report to the Court and to the Plaintiff (on a confidential basis) by **4.00pm on 2 July 2024**.
29. The costs of and incidental to the appointment of the Referee and the conduct of the Reference, including the Referee's reasonable costs, shall be paid in equal parts by the Plaintiff and the Plaintiff in *Andrianakis v Uber Technologies Inc* (proceeding No. S ECI 2019 01926) in the first instance on their own behalf, but otherwise half of those costs shall form part of the Plaintiff's costs and shall be deducted from the settlement sum prior to any distribution of it to eligible group members, if the settlement is approved by the Court.



Orders to be vacated

30. The following orders in the proceeding be vacated:
- (m) all outstanding programming orders; and
 - (n) all orders requiring the provision of security for costs.
31. All amounts paid into Court by or on behalf of the Plaintiff as security for the Defendants' costs of the proceeding, and any interest accrued on those amounts, be repaid at the direction of the Plaintiff. For the avoidance of doubt, these include the following payments of security, totalling \$4,862,287 (exclusive of any interest earned):
- (o) \$115,000 paid in accordance with paragraph 7 of the orders dated 20 December 2019;
 - (p) \$260,000 paid in accordance with paragraph 1(a) of the orders dated 24 March 2021;
 - (q) \$1,966,287 paid in accordance with paragraph 1(b) of the orders dated 24 March 2021; and
 - (r) \$2,521,000 paid in accordance with paragraph 1 of the orders dated 1 September 2023.

Confidentiality

32. Pursuant to s 18(1)(a) of the *Open Courts Act 2013* (Vic) and/or the Court's inherent jurisdiction, Exhibit MHD-13 to the affidavit of Michael Harold Donnelly affirmed on 15 April 2024 is confidential and shall not be published or disclosed without prior leave of the Court to any person or entity other than the Plaintiff and his legal representatives, the Defendants and their legal representatives, Harbour and their legal representatives and the Court.

Liberty to apply

33. The parties have liberty to apply on 3 days' notice.

DATE AUTHENTICATED: 24 April 2024



THE HONOURABLE JUSTICE MATTHEWS



SCHEDULE OF PARTIES

JAMAL SALEM IN HER CAPACITY AS EXECUTOR FOR THE ESTATE OF ANWAR SALEM Plaintiff

- v -

UBER TECHNOLOGIES INCORPORATED (4849283) First Defendant

UBER INTERNATIONAL HOLDING B.V. (RSIN 851 929 357) Second Defendant

UBER B.V. (RSIN 852 071 589) Third Defendant

UBER AUSTRALIA PTY LTD (ACN 160 299 865) Fourth Defendant

RASIER OPERATIONS B.V. (RSIN 853 682 318) Fifth Defendant

UBER PACIFIC HOLDINGS B.V. (RSIN 855 779 330) Sixth Defendant

UBER PACIFIC HOLDINGS PTY LTD (ACN 609 590 463) Seventh Defendant

