

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

S ECI 2023 01227

BETWEEN:

ROBERT LAIRD KILAH

First Plaintiff

BRENDAN FRANCIS SINNAMON

Second Plaintiff

- and -

MEDIBANK PRIVATE LTD (ACN 080 890 259)

Defendant

ORDER

JUDGE OF THE COURT: The Honourable Justice Attiwill

DATE MADE: 6 February 2024

ORIGINATING PROCESS: Writ filed 28 March 2023

HOW OBTAINED: At hearing of the plaintiffs' summons filed 24 November 2023 and case management conference, on 6 February 2024

ATTENDANCE: Mr A Hochroth with Mr H C Whitwell, of counsel, for the plaintiffs
Mr N P De Young KC with Ms J A Findlay, of counsel, for the defendant

OTHER MATTERS:

- A. The plaintiffs, by their counsel, undertake not to provide Regency VI Funding Pty Ltd with any documents disclosed by the defendant in these proceedings and to which the implied obligation in *Harman v Secretary of State for Home Department* [1983] 1 AC 280 applies, prior to the next case management conference in these proceedings.
- B. This order is signed by the Judge pursuant to r 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015* (the **Rules**).



THE COURT ORDERS THAT:

Group costs order

1. The legal costs payable to the solicitors representing the plaintiffs and group members, Quinn Emanuel Urquhart and Sullivan LLP (**Quinn Emanuel**) and Phi Finney McDonald Pty Ltd (**PFM**), be calculated as a percentage of the amount of any award or settlement that may be recovered in the proceeding, with such payment to be shared equally between the two firms.
2. Subject to further order, the percentage referred to in paragraph 1 be 27.5% (inclusive of GST).
3. Liability for payment of the legal costs pursuant to paragraphs 1 and 2 be shared among the plaintiffs and all group members.
4. The plaintiffs bear their costs of the application.
5. The defendant's costs of the application are reserved.

Opt out and registration

6. By **4:00 pm on 20 February 2024**, the plaintiffs provide to the defendant their proposal in respect of:
 - a. the form, content and mode of distribution of notices to group members, to be approved pursuant to ss 33X and 33Y of the *Supreme Court Act 1986* (Vic) (the **Act**), regarding the commencement of this proceeding, their right to opt out, and any requirements as to claim registration; and
 - b. the form of any orders under s 33ZG of the Act, including as to the information to be provided on registration, (**opt out and registration proposal**).
7. By **4:00 pm on 12 March 2024**, the defendant is to provide the plaintiffs its comments on the plaintiffs' opt out and registration proposal.
8. By **4:00 pm on 9 April 2024**, to the extent necessary following the exchange of comments pursuant to paragraphs 6 and 7 above, the parties confer with a view to reaching agreement as to the matters the subject of that exchange.

Discovery by the plaintiffs

9. By **4:00pm on 5 March 2024**, the plaintiffs make discovery pursuant to r 29.01.1 of the Rules, in accordance with the parties' agreed electronic document exchange protocol.



Discovery by the defendant

10. By **4:00 pm on 5 March 2024**, the plaintiffs inform the defendant of the further categories of discovery they intend to seek from the defendant.
11. By **4:00 pm on 2 April 2024**, the defendant provide to the plaintiffs its response to the further categories of discovery proposed pursuant to paragraph 10 above.
12. By **4:00 pm on 16 April 2024**, to the extent necessary following the exchange envisaged by paragraphs 10 and 11 above, the parties confer with a view to reaching agreement as to the matters the subject of that exchange.
13. Any remaining disagreement as to further discovery by the defendant be addressed at the case management conference fixed by paragraph 14 below.

Other matters

14. The matter is listed for a further case management conference on **10:00am on 3 May 2024**.
15. Liberty to apply.

DATE AUTHENTICATED: **7 February 2024**

The Honourable Justice Attiwill

A red circular seal of the Supreme Court of Victoria is stamped over a blue ink signature. The seal features the coat of arms of Victoria in the center, surrounded by the text "THE SUPREME COURT OF VICTORIA" and "JUDGE OF THE SUPREME COURT OF VICTORIA".