

**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: 7 March 2025

ORIGINATING PROCESS: Writ filed 28 March 2023

HOW OBTAINED: On the Court's own motion

ATTENDANCE: Not applicable

OTHER MATTERS:

- A. The Commercial Court Registry has received Opt Out Forms (as defined in the order made by the Honourable Justice Attiwill on 2 September 2025 (**September Order**)) on behalf of a number of group members after the expiration of the Class Deadline (as defined in the September Order).
- B. The Commercial Court Registry has taken steps to request that all group members on whose behalf a late Opt Out Form has been provided lodge a written application, in the form of a statutory declaration, detailing the reasons for their failure to lodge an Opt Out Form prior to the Class Deadline.
- C. The Court received statutory declarations on behalf of five group members.
- D. Upon consideration of the material provided, the Court has determined that the individuals listed in Annexure A to this order have disclosed adequate reasons for their failure to lodge Opt Out Forms prior to the Class

Deadline and should be permitted to opt out of the proceeding.

- E. The Court has also determined that a statutory declaration received on behalf of two group members listed in Annexure B, is defective in that it:
 - a. was only signed by one group member, despite purporting to be on behalf of both; and
 - b. does not disclose a valid reason for the failure to lodge an Opt Out Form prior to the Class Deadline.
- F. The Court provided the group members in Annexure B the opportunity to provide further reasons for their failure to lodge Opt Out Forms prior to the Class Deadline in separate statutory declarations, however no response has been received by the Court as at the date of this order.
- G. In these circumstances, the Court does not consider it appropriate at this juncture to make any order in relation to the group members in Annexure B.
- H. This order is signed by the Judge pursuant to r 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015*.

THE COURT ORDERS THAT:

- 1. The individuals in Annexure A cease to be group members in this proceeding pursuant to s 33KA of the *Supreme Court Act 1986* (Vic).

DATE AUTHENTICATED: **7 March 2025**

The Honourable Justice Attiwill



ANNEXURE A

Group members who provided valid late opt out requests

A valid opt out request is any late opt out application or notice received up to the date of these orders, where appropriate individual reasons are given for the lateness of the request.

No.	Name	Address provided	Date of opt out request provided to Registry
1	[REDACTED]	[REDACTED] [REDACTED]	6 November 2024
2	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED]	8 November 2024
3	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	17 December 2024

ANNEXURE B

Group members who provided a defective statutory declaration

No.	Name	Address provided	Date of opt out request provided to Registry
1	[REDACTED]	[REDACTED] [REDACTED]	8 November 2024
2	[REDACTED]	[REDACTED] [REDACTED]	8 November 2024