

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

GENERAL FORM OF ORDER

JUDGE: The Honourable Justice Matthews

DATE MADE: 2 April 2025

ORIGINATING PROCESS: Writ filed on 27 September 2021

HOW OBTAINED: On return of the plaintiffs summons dated 22 November 2024

APPEARANCES: LWL Armstrong KC, R Clark and A Staker of counsel for the plaintiffs
C Caleo KC and P Holmes of counsel for the defendants
A Hochroth of counsel for Maurice Blackburn and Johnson Winter Slattery

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**).
- B. The Court is satisfied that the technical requirements in s 42G of the *Evidence (Miscellaneous Provisions) Act 1958* (Vic) (**Evidence Act**) are met and that all parties consent to the making of the direction.



THE COURT ORDERS THAT:

Confidentiality

1. Pursuant to s 18(1)(a) of the *Open Courts Act 2013* (Vic) and/or the Court's inherent jurisdiction, and subject to any further order of the Court:
 - a. the documents or parts of documents identified in Part A of Schedule A to this Order (**Confidential Materials**) be confidential and, absent prior order of the Court, not be disclosed to any person other than:
 - i. her Honour Justice Matthews (**Settlement Judge**), staff of the Settlement Judge, and staff in the Court Registry necessarily involved in the filing or administration of the Confidential Materials (**Approved Persons**);
 - ii. the plaintiffs' solicitors and counsel; and
 - iii. representatives of Balance Legal Capital I UK Ltd (**Balance**) with involvement in the proceeding;
 - b. the plaintiffs file in the Registry unredacted copies of the documents being or containing the Confidential Materials, such documents to be marked as confidential on RedCrest;
 - c. the plaintiffs have leave to file, and serve on the defendants, copies of the documents being or containing the Confidential Materials, redacted to conceal the Confidential Materials;
 - d. the plaintiffs be otherwise excused from any requirement to file or serve the Confidential Materials; and
 - e. pages 92-118 of exhibit RG-2 to the affidavit of Rebecca Gilsenan dated 22 November 2024 be confidential and, absent prior order of the Court, not be disclosed to any person other than the Settlement Judge, Approved Persons, the plaintiffs' solicitors and counsel, Balance, the defendants, the defendants' solicitors and counsel.

Settlement approval

2. Pursuant to s 33V of the *Supreme Court Act 1986* (Vic) (**SCA**), the settlement of the proceeding upon the terms set out in:
 - a. the Settlement Deed exhibited to the Affidavit of Rebecca Gilsenan affirmed 22 November 2024; and
 - b. the Settlement Distribution Scheme (**SDS**) exhibited to the Affidavit of Rebecca Gilsenan affirmed 6 March 2025;(together the **Allianz Class Action Settlement**) be approved.
3. All of the claims of the Plaintiffs and of each Group Member in the proceeding be dismissed, with no order as to costs and with all previous costs orders (excluding the Group Costs Order made on 13 December 2022 and all orders requiring the Defendants to pay monies to KPMG) vacated.
4. Pursuant to ss 33V, further or alternatively 33ZF of the SCA, the following amounts are approved for the purposes of the SDS:



- a. the sum of \$42.5 million as the “Plaintiffs’ Legal Costs and Disbursements”, such amount to be shared equally between Maurice Blackburn and Johnson Winter Slattery;
- b. the sum of \$4.72 million for “Administration Costs”; and
- c. the sum of \$60,000 as the “Plaintiffs’ Reimbursement Payment”, such amount to be shared equally between the First Plaintiff and the Second Plaintiff.

Group members

5. Pursuant to s 33Y(2) of the SCA, the plaintiffs have leave, *nunc pro tunc*, to give to the persons identified at paragraphs 26.1, 26.4 and 31 of the affidavit of Rebecca Gilsenan affirmed 6 March 2025, notice of the proposed settlement of the proceeding by distributing to the said persons the correspondence approved by paragraph 1 of the Order made on 28 February 2025, and amended as necessary per paragraph 26.3 of the 6 March Gilsenan affidavit.
6. Any person who, between the Registration Deadline (as defined in the SDS) and 10 March 2025:
 - a. registered their claim via the portals for this proceeding maintained by KPMG, Maurice Blackburn and Johnson Winter Slattery; and/or
 - b. emailed Maurice Blackburn or Johnson Winter Slattery to seek to register their claim in this proceeding,
 is deemed to be an Unmatched Registrant for the purpose of the SDS, unless:
 - i. they have already been matched to ‘matching group 1’, in which case they are deemed to be a Matching Group 1 RGM for the purpose of the SDS; or
 - ii. they have already been matched to ‘matching group 2’, in which case they are deemed to be a Matching Group 2 RGM for the purpose of the SDS.
7. All requests to opt out of the proceedings received after 23 October 2024 are refused.

Authority and binding effect

8. Pursuant to s 33ZF of the SCA, the Plaintiffs be authorised *nunc pro tunc* to enter into and give effect to the Settlement Deed and the SDS for and on behalf of Group Members.
9. Pursuant to s 33ZB of the SCA, further or alternatively s 33ZF of the SCA:
 - a. the persons affected and bound by the Allianz Class Action Settlement are the Plaintiffs, the Group Members (which for the avoidance of doubt excludes persons who were group members but opted out of, or ceased to be group members in, and did not re-join the proceeding), and the Defendants; and
 - b. each of the Released Parties identified in the Settlement Deed is released by the Plaintiffs and each of the Group Members from each Claim (as defined in the Settlement Deed) made by or on behalf of the Plaintiffs or any Group Member in the proceeding.

SDS Administrator

10. Pursuant to s 33ZF of the Act, Maurice Blackburn be appointed as the Administrator of the SDS (**SDS Administrator**), with the powers and immunities set out in the SDS.



11. Pursuant to r 9.06 of the Rules, the SDS Administrator be joined as a party to the proceeding for the limited purpose of exercising the SDS Administrator's liberty to apply for the purpose of Order 12.
12. The SDS Administrator has liberty to apply in respect of any matter arising in or in relation to the administration of the Scheme, on not less than 3 clear business days' notice to the Court and to each party to the proceeding.

Scheme Administration and dismissal

13. The SDS Administrator shall provide reports to the Settlement Judge as to the performance of the settlement, including the costs incurred and distributions made, every 6 months.
14. Upon the SDS Administrator being satisfied that the implementation of the SDS has been completed:
 - a. the SDS Administrator shall deliver to the Court:
 - i. addressed to the Associate to the Settlement Judge – a report identifying the principal steps taken to implement the SDS and itemising the distributions made to any person pursuant to the SDS;
 - ii. proposed orders for the dismissal of the proceeding;
 - b. the SDS Administrator shall notify the Defendants that the steps in 'a' have been taken; and
 - c. subject to other order of the Court – the proceeding shall be dismissed with no order as to costs.

Costs

15. There be no order as to the costs of the proceeding.
16. All *inter partes* costs orders in the proceeding as between the Plaintiffs and the Defendants be vacated, but for the avoidance of doubt this order does not affect –
 - a. the Group Costs Order (being orders 1 to 5 of the Orders dated 13 December 2022) or
 - b. any orders requiring the Defendants to pay monies to KPMG.

Other matters

17. Pursuant to s 42E(1) of the Evidence Act, all persons shall appear, give evidence and make submissions in this proceeding on 2 April 2025 by audiovisual/audio link.

DATE AUTHENTICATED: 2 April 2025

THE HONOURABLE JUSTICE MATTHEWS

SCHEDULE A – CONFIDENTIAL MATERIALS

The following documents or parts of documents comprise the Confidential Materials referred to in Order 1(a) of these Orders:

1. the text highlighted in grey in the affidavit of Andreas Peter Piesiewicz sworn 28 February 2025 (**Piesiewicz Affidavit**);
2. the text highlighted orange in exhibit APP-1 to the Piesiewicz Affidavit;
3. the whole of confidential exhibit APP-1 to the Piesiewicz Affidavit;
4. the text highlighted in grey in the affidavit of Rebecca Gilsenan affirmed 4 March 2025 (**Gilsenan Affidavit**);
5. the text highlighted grey in exhibit RG-3 to the Gilsenan Affidavit;
6. the whole of confidential exhibit RG-4 to the Gilsenan Affidavit;
7. the text highlighted in grey in the affidavit of Rebecca Gilsenan affirmed 6 March 2025 (**Second Gilsenan Affidavit**);
8. the text highlighted grey in exhibit RG-5 to the Second Gilsenan Affidavit;
9. the whole of confidential exhibit RG-6 to the Second Gilsenan Affidavit;
10. the whole of the special referee report by Kerrie Rosati dated 20 February 2025; and
11. the text highlighted orange in the submissions of Maurice Blackburn and Johnson Winter Slattery dated 7 March 2025.



SCHEDULE OF PARTIES

S ECI 2020 02853

BETWEEN:

TRACY-ANN FULLER

First Plaintiff

JORDAN WILKINSON

Second Plaintiff

- v -

ALLIANZ AUSTRALIA INSURANCE LIMITED
(ACN 000 122 850)

First Defendant

ALLIANZ AUSTRALIA LIFE INSURANCE LIMITED
(ACN 076 033 782)

Second Defendant

