



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

Case: S ECI 2024 02663
Filed on: 04/04/2025 03:55 PM

No. S ECI 2024 02663

B E T W E E N

DEBRA GAYE-ANN DAWSON

First Plaintiff

ANGELA SUSAN WILLIAMS

Second Plaintiff

ANDREW JOHN INGLIS

Third Plaintiff

-and-

INSURANCE AUSTRALIA LIMITED (ACN 000 016 722)

First Defendant

**INSURANCE MANUFACTURERS OF AUSTRALIA PTY LIMITED
(ACN 004 208 084)**

Second Defendant

CONSOLIDATED STATEMENT OF CLAIM

Filed pursuant to the order of Nichols J made 1 April 2025

Date of Document:	4 April 2025		
Filed on behalf of:	The Plaintiffs		
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A. THE PLAINTIFFS AND GROUP MEMBERS

1. Debra Dawson, Angela Williams and Andrew Inglis (together, the **Plaintiffs**) commence this proceeding as representative parties pursuant to Part 4A of the *Supreme Court Act 1986* (Vic) on their own behalf and on behalf of the Group Members described in this Consolidated Statement of Claim.
2. The First Plaintiff and the persons who she represents (**IAL SGI Group Members**) are persons who:
 - (a) at any time between 29 May 2018 and 28 May 2024 (the **SGI Relevant Period**) renewed and were subsequently issued an insurance product by Insurance Australia Limited (or **IAL**) under either of the brands the State Government Insurance Office (**SGIO**) or the State Government Insurance Commission (**SGIC**), which was a:
 - i. home insurance product (**IAL Home Policy**); or
 - ii. home contents insurance product (**IAL Contents Policy**); or
 - iii. home and contents insurance product (**IAL Home and Contents Policy**),

(each an **IAL Insurance Policy**); and
 - (b) the renewal referred to at paragraph 2(a) above took place in circumstances where the person was renewing an existing IAL Insurance Policy at a time at which they already held one or more IAL Insurance Policies; and
 - (c) were and are consumers within the meaning of s 12BC of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) in their dealings with the First Defendant; and
 - (d) are alleged to have suffered loss or damage by reason of the contravening conduct of the First Defendant, as pleaded in this Consolidated Statement of Claim; and
 - (e) are not:

- i. a related party (as defined by s 228 of the *Corporations Act 2001* (Cth)) (**Corporations Act**) of the First Defendant; or
 - ii. a related body corporate (as defined by s 50 of the *Corporations Act*) of the First Defendant; or
 - iii. an associated entity (as defined by s 50AAA of the *Corporations Act*) of the First Defendant; or
 - iv. an officer or a director (as defined by s 9 of the *Corporations Act*) of the First Defendant; or
 - v. a legal representative of the First Plaintiff; or
 - vi. a Judge of Appeal, a Judge of the Court, an Associate Judge or a Judicial Registrar (each within the meaning of the *Supreme Court Act 1986* (Vic)) of the Supreme Court of Victoria.
3. The Second Plaintiff and the persons who she represents (**IMA Group Members**) are persons who:
- (a) at any time between 29 May 2018 and 28 May 2024 (the **IMA Relevant Period**) renewed and were subsequently issued an insurance product by Insurance Manufacturers of Australia Pty Ltd (or **IMA**) under the Royal Automobile Club of Victoria brand (**RACV**) which was a:
 - i. home insurance product (**IMA Home Policy**); or
 - ii. home contents insurance product (**IMA Contents Policy**); or
 - iii. home and contents insurance product (**IMA Home and Contents Policy**),
 (each an **IMA Insurance Policy**); and
 - (b) the renewal referred to at paragraph 3(a) above took place in circumstances where the person was renewing an existing IMA Insurance Policy at a time at which they already held one or more IMA Insurance Policies; and

- (c) were and are consumers within the meaning of s 12BC of the ASIC Act in their dealings with the Second Defendant; and
- (d) are alleged to have suffered loss or damage by reason of the contravening conduct of the Second Defendant, as pleaded in this Consolidated Statement of Claim; and
- (e) are not:
 - i. a related party (as defined by s 228 of the Corporations Act) of the Second Defendant; or
 - ii. a related body corporate (as defined by s 50 of the Corporations Act) of the Second Defendant; or
 - iii. an associated entity (as defined by s 50AAA of the Corporations Act) of the Second Defendant; or
 - iv. an officer or a director (as defined by s 9 of the Corporations Act) of the Second Defendant; or
 - v. a legal representative of the Second Plaintiff; or
 - vi. a Judge of Appeal, a Judge of the Court, an Associate Judge or a Judicial Registrar (each within the meaning of the *Supreme Court Act 1986* (Vic)) of the Supreme Court of Victoria.

4. The Third Plaintiff and the persons who he represents (**IAL NRMA Group Members**) are persons who:

- (a) at any time between 10 December 2018 and 9 December 2024 (the **NRMA Relevant Period**) renewed and were subsequently issued an insurance product by IAL under the National Roads and Motorists' Association Limited (**NRMA**) brand which was an IAL Insurance Policy;
- (b) the renewal referred to at paragraph 4(a) above took place in circumstances where the person was renewing an existing IAL Insurance Policy; and

- (c) were and are consumers within the meaning of s 12BC of the ASIC Act in their dealings with IAL; and
 - (d) are alleged to have suffered loss or damage by reason of the contravening conduct of IAL, as pleaded in this Consolidated Statement of Claim; and
 - (e) are not:
 - i. a related party (as defined by s 228 of the Corporations Act) of IAL; or
 - ii. a related body corporate (as defined by s 50 of the Corporations Act) of IAL; or
 - iii. an associated entity (as defined by s 50AAA of the Corporations Act) of IAL; or
 - iv. an officer or a director (as defined by s 9 of the Corporations Act) of IAL; or
 - v. a legal representative of the Third Plaintiff; or
 - vi. a Judge of Appeal, a Judge of the Court, an Associate Judge or a Judicial Registrar (each within the meaning of the *Supreme Court Act 1986* (Vic)) of the Supreme Court of Victoria.
5. At the time of the commencement of this proceeding, there are seven or more persons who have claims against each Defendant in respect of the matters set out in this Consolidated Statement of Claim.
6. The First Plaintiff:
- (a) is a natural person;
 - (b) was and is a consumer within the meaning of s 12BC of the ASIC Act in her dealings with the First Defendant;
 - (c) first purchased an IAL Insurance Policy which was issued by IAL under the brand name SGIO in or around November 2005;

- (d) renewed the IAL Insurance Policy pleaded at paragraph 6(c) in or around November in each subsequent year;
- (e) at all relevant times held an IAL Insurance Policy with IAL under the brand name SGIO.

PARTICULARS

The best particulars the First Plaintiff can presently provide are as follows:

- (a) Since around November 2005, the First Plaintiff has held an IAL Contents Policy with SGIO.
- (b) Since at least November 2020, the First Plaintiff has held an SGIO product known as ‘Home@50 Contents’ (policy number HOM393007119).
- (c) The First Plaintiff is currently in possession of Certificates of Insurance for the product referred to in subparagraph (b) above dated 12 September 2020, 12 October 2020 (following an adjustment of the First Plaintiff’s level of coverage), 11 September 2021 and 10 September 2022.
- (d) Each of the Certificates of Insurance referred to above stated on the first page that “*Your Monthly Premium*” includes “*12.5% Loyalty Discount*”, and a heading “*Your Loyalty Discount*”, followed by “*Loyalty Discount 12.5%*” and then a dollar figure; the number of “*Loyalty Years*” (15 in 2020, 16 in 2021, and 17 in 2022); and the “*Number of policies*” (2 at all times).
- (e) Further, each of the Certificates of Insurance referred to above stated on page 3 that the premium was calculated by including a deduction for a “*12.5% Loyalty Discount*”, and in relation to the Certificates of Insurance dated 12 September 2020, 11 September 2021 and 10 September 2022, that the First Plaintiff’s premium had been calculated ‘less’ the 12.5% Loyalty Discount referred to above.
- (f) On around 7 September 2023, the First Plaintiff was informed by letter from SGIO and NRMA of that date that SGIO was becoming NRMA Insurance, and that her home contents insurance policy would on renewal be an NRMA home contents policy.

Copies of the Certificates of Insurance and correspondence referred to in subparagraphs (c)–(f) above are in the possession of the solicitors for the First Plaintiff, and are available on request.

Further particulars may be provided after discovery and evidence and before trial.

7. The Second Plaintiff:

- (a) is a natural person;

- (b) was and is a consumer within the meaning of s 12BC of the ASIC Act in her dealings with the Second Defendant;
- (c) first purchased an IMA Insurance Policy from IMA which was issued by IMA under the brand name RACV in or around 1999 or the time at which policies issued under the RACV brand were first issued by IMA, which was no later than 2000 and at all relevant times held the policy jointly with another person;
- (d) renewed the IMA Insurance Policy pleaded at paragraph 7(c) in or around June or July each year;
- (e) at all relevant times held an IMA Insurance Policy with IMA under the brand name RACV.

PARTICULARS

The best particulars the Second Plaintiff can presently provide are as follows:

- (a) Since at least 2001, the Second Plaintiff has held an IMA Home and Contents Policy with RACV in the form of a product known as ‘Home Buildings and Contents’ (or similar) (policy number HOM073684304).
- (b) The Second Plaintiff is currently in possession of Certificates of Insurance for the product referred to in subparagraph (a) above dated 23 July 2002, 12 June 2010, 11 June 2011, 16 June 2012, 12 July 2013, 14 June 2014, 7 June 2015, 11 June 2016 (yearly payment) and 23 July 2016 (monthly payment), 17 June 2017, 23 June 2018, 22 June 2019, 20 June 2020, 19 June 2021, 18 June 2022, and 17 June 2023.
- (c) The Certificate of Insurance dated 23 July 2002 stated “*Your premium has been reduced by these savings*”, and then “*Linked Policy discount*” and a dollar amount.
- (d) The Certificate of Insurance dated 12 June 2010 stated “*Thank you for your loyalty. These discounts have already been deducted from your premium*” and then “*RACV Silver Years of Membership Benefit*” and “*Linked Policy Discount*”, and dollar amounts.
- (e) The Certificate of Insurance dated 11 June 2011 stated “*Thank you for your loyalty. These discounts have already been deducted from your premium*” and then “*Multi-Policy Discount*” and “*RACV Gold Years of Membership Benefit*”, and then dollar amounts.
- (f) The Certificate of Insurance dated 11 June 2011 also stated, in large text and a shaded box: “***Congratulations, you’re now saving 15%***” and “*Congratulations, you as you’ve been a member with RACV for 25 years, we’d like to give you a Years of Membership Benefit of 15% off your premium. This discount is just one of the many benefits of being a RACV member*”.

- (g) The Certificates of Insurance dated 16 June 2012 to 7 June 2015 stated “*Thank you for your loyalty. These discounts have already been deducted from your premium*” and then “*Multi-Policy Discount*” and “*RACV Gold Years of Membership Benefit*”, and then dollar amounts.
- (h) The Certificates of Insurance dated from 11 June 2016 stated:
 - i. “*Your policy benefits from a Years of Membership discount*”; and
 - ii. under the heading ‘Your Discounts’, “*Multi-Policy Discount*” and “*Gold 15% Years of Membership Benefit*”, then dollar amounts, and then “These discounts have already been deducted from your premium”.

Copies of the Certificates of Insurance referred to above are in the possession of the solicitors for the Second Plaintiff, and are available on request.

Further particulars may be provided after discovery and evidence and before trial.

8. The Third Plaintiff:

- (a) is a natural person;
- (b) was and is a consumer within the meaning of s 12BC of the ASIC Act in his dealings with IAL;
- (c) first purchased an IAL Insurance Policy in or around 1985 and at all relevant times held the policy jointly with another person;
- (d) renewed the IAL Insurance Policy pleaded at paragraph 8(c) in each subsequent year until about 1990;
- (e) first purchased a second IAL Insurance Policy in or around 1990;
- (f) renewed the IAL Insurance Policy pleaded at paragraph 8(e) in each subsequent year until in or around 2001;
- (g) first purchased a third IAL Insurance Policy in or around September 2001, and held the policy jointly with another person at all times;
- (h) renewed the IAL Insurance Policy pleaded at paragraph 8(g) in each subsequent year in or around August or September each year until about September 2024;

- (i) first purchased a fourth IAL Insurance Policy in or around October 2007, and held the policy jointly with another person at all times;
- (j) renewed the IAL Insurance Policy pleaded at paragraph 8(i) above in each subsequent year in or around October to December each year until September 2024;
- (k) at all times from about 1985 until about 15 September 2024, held at least one IAL Insurance Policy with IAL under the brand name NRMA;
- (l) from about 1991 until 2001, and then from about 2012 onwards, held other insurance policies with IAL under the NRMA brand in respect of matters other than home and/or contents insurance;
- (m) at all relevant times from 1985 until about 15 September 2024 held at least one policy of insurance with IAL under the brand name NRMA.

PARTICULARS

The best particulars the Third Plaintiff can presently provide are as follows.

In relation to the IAL Insurance Policy pleaded at paragraph 8(g):

- (a) this policy was an IAL Home and Contents Policy held with NRMA in the form of a product known as ‘Home @50 Buildings and Contents’ (or similar) (policy number HOM532644137), and subsequently ‘Home Insurance’ (or similar) (policy number HOMN0001212000).
- (b) The Third Plaintiff is currently in possession of Certificates of Insurance for this product dated 19 July 2016, 20 July 2018 (including as amended on 23 January 2019), 26 June 2021, 25 June 2022 and 2 July 2024 (bearing the policy number HOMN0001212000).
- (c) Each of the Certificates of Insurance referred to above (save for the Certificate of Insurance dated 2 July 2024, which is addressed below) stated on the first page that “*Your Premium* (for 2016 and 2018) or “*Your Monthly Premium*” (for 2021 and 2022) includes a “*25% Loyalty Discount*” and a heading “*Your Loyalty Discount*”, followed by “*Loyalty Discount 25%*” and then a dollar figure (save for 2018, which was blank); the number of “*Loyalty Years*” (34 in 2016, 36 in 2018, 39 in 2021, 40 in 2022); and the “*Number of policies*” (11 in 2016, 12 in 2018, 10 in 2021 and 2022);
- (d) Further, each of the Certificates of Insurance referred to above stated on page 3 or 4 that the premium had been calculated ‘less’ the 25% Loyalty Discount referred to above, save for the Certificate of Insurance dated 20 July 2018, which stated that “*The following*

provides an overview of what has been included in your total premium...25% Loyalty Discount”.

- (e) The Certificate of Insurance dated 2 July 2024 stated:
- i. *“The premium for your policy includes the following discounts: **Multi-Product discount** [and] **Relationship Discount**”*
 - ii. under the heading ‘your discounts’, the following:
 - A. *“**Multi-Product discount** – building Jyndarra Lodge 730 Wombeyan Caves Road...thank you for having 8 eligible products with us...10%”*
 - B. *“**Multi-Product discount** – contents Jyndarra Lodge 730 Wombeyan Caves Road...thank you for having 8 eligible products with us...10%”*
 - C. *“**Relationship discount**...thank you for being a valued NRMA Insurance customer for 42 years in a row...10%”*

In relation to the IAL Insurance Policy pleaded at paragraph 8(i):

- (a) this policy was an IAL Home and Contents Policy held with NRMA in the form of product known as ‘Home@50 Buildings and Contents’ (or similar) (policy number HOM334495426).
- (b) The Third Plaintiff is currently in possession of Certificates of Insurance for this product dated 10 October 2015, 14 October 2017, 4 November 2018, 10 October 2020 (including as amended on 10 December 2020) and 10 October 2022.
- (c) Each of the Certificates of Insurance referred to above stated on the first page that “*Your Annual Premium*” (for 2015 and 2017) or “*Your Premium*” (for 2018) or “*Your Monthly Premium*” (for 2020 and 2022) includes a “*25% Loyalty Discount*” and a heading “*Your Loyalty Discount*”, followed by “*Loyalty Discount 25%*” and then a dollar figure (save for 2022, which was blank); the number of “*Loyalty Years*” (33 in 2015, 35 in 2017, 36 in 2018, 38 in 2020, 40 in 2022); and the “*Number of policies*” (12 in 2015 and 2017, 11 in 2018 and 2020, 10 in 2022).
- (d) Further, each of the Certificates of Insurance referred to above stated on page 3 or 4 that the premium had been calculated ‘less’ the 25% Loyalty Discount referred to above, save for the Certificate of Insurance dated 8 October 2022, which stated that “*The following provides an overview of what has been included in your total premium...25% Loyalty Discount*”.

In relation to the other insurance policies pleaded at paragraph 8(l), those other policies included car insurance policies with policy numbers MOT667866380, NSW114033108, MOT507275588 and MOT499471266.

Copies of the Certificates of Insurance referred to above in these particulars are in the possession of the solicitors for the Third Plaintiff and are available on request.

Further particulars may be provided after discovery and evidence and before trial.

B. THE DEFENDANTS

9. At all relevant times, IAL:

- (a) carried on the business of insurance throughout Australia;
- (b) was and is a wholly-owned subsidiary of Insurance Australia Group (**IAG**);
- (c) was and is a company incorporated pursuant to the Corporations Act and capable of being sued;
- (d) was and is a corporation within the meaning of the ASIC Act;
- (e) was and is a person within the meaning of:
 - i. ss 1041E and 1041H of the Corporations Act;
 - ii. ss 12DA, 12DB, 12DF and 12CB of the ASIC Act;
- (f) was and is the holder of Australian Financial Services Licence (**AFSL**) No. 227681; and
- (g) was and is a financial services licensee for the purposes of s 912A of the Corporations Act.

10. At all relevant times IMA:

- (a) carried on the business of insurance throughout Australia;
- (b) was and is owned 70% by IAG and 30% by the Royal Automobile Club of Victoria Ltd (ACN 004 060 833);
- (c) was and is a company incorporated pursuant to the Corporations Act and capable of being sued;
- (d) was and is a corporation within the meaning of the ASIC Act;
- (e) was and is a person within the meaning of:

- i. ss 1041E and 1041H of the Corporations Act;
 - ii. ss 12DA, 12DB, 12DF and 12CB of the ASIC Act;
- (f) was and is the holder of AFSL No. 227678; and
- (g) was and is a financial services licensee for the purposes of s 912A of the Corporations Act.

C. THE STATUTORY AND REGULATORY FRAMEWORK

IMA and IAL's AFSL obligations

11. At all relevant times, IMA and IAL, as holders of AFSLs, were required to comply with the general obligations imposed upon Australian financial services licensees by s 912A of the Corporations Act, which included requirements that IAL and IMA:
- (a) do all things necessary to ensure that the financial services covered by IAL and IMA's respective licences were provided efficiently, honestly and fairly;
 - (b) comply with the financial services laws;
 - (c) take reasonable steps to ensure that their representatives comply with the financial services laws.
12. At all relevant times, IAL and IMA were subscribers to the Insurance Council of Australia's General Insurance Codes of Practice as revised, amended and updated from time to time during each Relevant Period (the **Code**).

PARTICULARS

The relevant versions of the Code are dated 2014 (taking effect from 1 July 2014 and in effect until 30 December 2019) and 2020 (with revisions on 1 July 2021, 5 October 2021 and 1 October 2023) and are available at the website <https://insurancecouncil.com.au/cop/>

13. The Code is and was at all relevant times an applicable industry code and was binding on IAL and IMA.

14. At all relevant times, the Code contained clauses to the following effect:
- (a) the terms of the Code require subscribing insurers to the Code to be open, fair and honest in dealings with insureds;
 - (b) the objectives of the Code are (among other things):
 - i. to commit subscribing insurers to high standards of service;
 - ii. to promote better, more informed relations between subscribing insurers and insureds;
 - iii. to maintain and promote trust and confidence in the general insurance industry;
 - iv. that a contract of insurance is a contract based on the utmost good faith;
 - v. the Code applies to all new policies and renewed policies of insurance entered into with subscribing insurers after their adoption of the Code;
 - vi. the Code covers all general insurance products except Workers Compensation, Marine Insurance, Medical Indemnity Insurance and Motor Vehicle Injury Insurance.
15. By reason of the matters pleaded at paragraphs 13 and 14, IAL and IMA were each required to, among other things:
- (a) act in a manner towards consumers which was efficient, honest and fair with respect to the offering of either IAL Insurance Policies or IMA Insurance Policies; and
 - (b) act in an open, fair and honest manner towards consumers who were considering purchasing or renewing either IAL Insurance Policies or IMA Insurance Policies; and
 - (c) provide consumers with all relevant information as to how each consumer's premium for an IAL Insurance Policy or an IMA Insurance Policy would be or had been calculated.

PARTICULARS

In relation to paragraph 15(a), the Plaintiffs refer to clause 4.4 of the 2014 Code and clause 21 of the 2020 Code and 2023 Code.

In relation to paragraph 15(b), the Plaintiffs refer to clause 1.3 of the 2014 Code and clause 21 and the section titled ‘Our principles’ of the 2020 Code and 2023 Code. Further, the matters at paragraph 15(b) are to be implied from the following text in the ‘Our Principles’ section of the 2020 Code and the 2023 Code:

*“We will provide **value, transparency and fairness of products and services** by:*

- designing and selling insurance products and services that are of value to the community they are sold to;*
- designing and selling insurance products and services in a clear, transparent and fair manner...*

*We will promote **trust, integrity and respect** by:*

- meeting promises made to the community in a trusting environment;*
- being open, fair and understanding, and acting with integrity, in our dealings with the community;*
- being clear, transparent, fair and timely in our communications with the community”.*

(Emphasis in original).

In relation to paragraph 15(c), this requirement is to be implied by reason of the matters pleaded at paragraphs 15(a) and 15(b).

D. THE INSURANCE POLICIES

The IAL Insurance Policies

16. During the SGI Relevant Period and the NRMA Relevant Period, IAL offered the IAL Insurance Policies for sale to consumers, including the First Plaintiff and the IAL SGI Group Members and the Third Plaintiff and the IAL NRMA Group Members (together, the **IAL Plaintiffs** and the **IAL Group Members** as applicable), at a time when they were due to renew one or more of their IAL Insurance Policies in circumstances including the following:

- IAL provided to the IAL Plaintiffs and the IAL Group Members a Certificate of Insurance which included a quote in respect of a Final Premium (as defined at paragraph 26(c)), below, which definition also applies in respect of IAL

Insurance Policies issued under the brand name NRMA and the IMA Insurance Policies); and

- (b) the Certificate of Insurance constituted an offer of insurance (the **IAL Offer**); and
- (c) the IAL Plaintiffs and an IAL Group Member could accept an IAL Offer by paying the Final Premium shown on the Certificate of Insurance in full, or by paying the first monthly instalment thereof.

17. The IAL Insurance Policy, once issued, constituted a contract of insurance between IAL and the First Plaintiff or IAL SGI Group Member on the one hand, and IAL and the Third Plaintiff or IAL NRMA Group Member on the other, comprising the following documents:

- (a) the Certificate of Insurance; and
- (b) the relevant Product Disclosure Statement and Policy Booklet (**PDS**) or equivalent document from time to time.

18. During the SGI Relevant Period and NRMA Relevant Period, IAL promoted to consumers and offered to:

- (a) the First Plaintiff and IAL SGI Group Members discounts in relation to the IAL Insurance Policies styled as loyalty discounts, relationship discounts and/or multi-product discounts, such discounts represented to be based on:
 - i. the length of time that a consumer held eligible insurance products with SGIO or SGIC (including but not limited to IAL Insurance Policies); and
 - ii. the number of eligible insurance products held by a consumer with SGIO or SGIC (each and together an **SGIO/SGIC Loyalty Discount**);
- (b) the Third Plaintiff and the IAL NRMA Group Members discounts in relation to the IAL NRMA Insurance Policies styled as loyalty discounts, relationship

discounts and/or multi product discounts, such discounts represented to be based on:

- i. the length of time that a consumer held eligible insurance products with NRMA (including but not limited to Insurance Policies); and
- ii. the number of eligible insurance products held by a consumer with NRMA (each and together an **NRMA Loyalty Discount**).

PARTICULARS

The First Plaintiff refers to the Certificates of Insurance issued to consumers during the SGI Relevant Period by IAL under the SGIC and SGIO brands, which contained one or more of the following statements from time to time:

- (a) the consumer's Loyalty Discount was calculated by reference to 'Loyalty Years' and the 'Number of policies';
- (b) the consumer should 'see page 2 for a list of the policies used to determine [the consumer's] Loyalty Discount';
- (c) the consumer's 'new policy, together with the following list of policies, was used to determine this policy's Loyalty Discount';
- (d) the consumer's Loyalty Discount 'is based on the policyholder who has the most eligible policies and longest relationship with us';
- (e) the list of policies contained in the Certificate of Insurance was 'used to determine this policy's Loyalty Discount'.

The First Plaintiff otherwise refers to the particulars to paragraph 6 above in relation to the Certificates of Insurance received by her.

The Third Plaintiff refers to the Certificates of Insurance issued to consumers during the NRMA Relevant Period by IAL under the NRMA brand in respect of renewing policies with a renewal date before 1 July 2024, which contained one or more of the following statements from time to time:

- (a) the consumer's Loyalty Discount was calculated by reference to 'Loyalty Years' and the 'Number of policies';
- (b) the consumer should 'see page 2 for a list of the policies used to determine [the consumer's] Loyalty Discount';
- (c) the consumer's Loyalty Discount 'is based on the policyholder who has the most eligible policies and longest relationship with us';
- (d) until about March 2020, the consumer's 'new policy, together with the following list of policies, was used to determine this policy's Loyalty Discount';
- (e) until about March 2020, the list of policies contained in the Certificate of Insurance was 'used to determine this policy's Loyalty Discount'.

The Third Plaintiff also refers to the Certificates of Insurance issued during the NRMA Relevant Period by IAL under the NRMA brand in respect of renewing policies with a renewal date after 1 July 2024, which contained one or more of the following statements:

- (a) the consumer's premium for their policy included a 'Multi-Product discount' and a 'Relationship discount';
- (b) more details on the consumer's discounts were provided under the 'Your discounts' section of the Certificate of Insurance.

The Third Plaintiff otherwise refers to the particulars to paragraph 8 above in relation to the Certificates of Insurance Issued to him.

- 19. Each of the IAL Insurance Policies was a financial product within the meaning of s 763A and s 763C of the Corporations Act and s 12BAA of the ASIC Act.
- 20. By reason of the matters pleaded at paragraphs 16 to 19, at all relevant times, IAL:
 - (a) in trade or commerce, provided a financial service to:
 - i. the First Plaintiff and the IAL SGI Group Members; and
 - ii. the Third Plaintiff and the IAL NRMA Group Members,within the meaning of s 12BAB of the ASIC Act;
 - (b) provided a financial service to:
 - i. the First Plaintiff and the IAL SGI Group Members; and
 - ii. the Third Plaintiff and the IAL NRMA Group Members,within the meaning of s 766A of the Corporations Act; and
 - (c) dealt in a financial product in relation to:
 - i. the First Plaintiff and the IAL SGI Group Members; and
 - ii. the Third Plaintiff and the IAL NRMA Group Members,within the meaning of s 766C of the Corporations Act and s 12BAB(7) of the ASIC Act.

The IMA Insurance Policies

21. During the IMA Relevant Period, IMA offered the IMA Insurance Policies for sale to consumers, including the Second Plaintiff and the IMA Group Members, at a time when they were due to renew one or more of their IMA Insurance Policies in circumstances including the following:
 - (a) IMA provided to the Second Plaintiff and the IMA Group Members a Certificate of Insurance which included a quote in respect of a Final Premium; and
 - (b) the Certificate of Insurance constituted an offer of insurance (the **IMA Offer**); and
 - (c) the Second Plaintiff and an IMA Group Member could accept an IMA Offer by paying the Final Premium shown on the Certificate of Insurance in full, or by paying the first monthly instalment thereof.
22. The IMA Insurance Policy, once issued, constituted a contract of insurance between IMA and the Second Plaintiff or IMA Group Member, that contract of insurance comprising the following documents:
 - (a) the Certificate of Insurance; and
 - (b) the relevant PDS or equivalent document from time to time.
23. During the IMA Relevant Period, IMA promoted to consumers and offered to the Second Plaintiff and the IMA Group Members discounts in relation to the IMA Insurance Policies, such discounts represented to be based on:
 - (a) a 'Years of Membership Benefit', which was promoted as being a percentage discount on a consumer's premium calculated by reference to the length of time that a consumer had been a member of RACV, including by holding eligible RACV branded insurance policies, with consumers labelled 'gold' 'silver' or 'bronze' members, depending on their duration of membership (**Years of Membership Discount**); and

a ‘Multi-Policy Discount’, which was promoted as a percentage discount on a relevant consumer’s premium calculated by reference to the number of eligible RACV-branded insurance products held by a consumer (**Multi-Policy Discount**), (each, and together an **RACV Loyalty Discount**).

PARTICULARS

The Second Plaintiff refers to the Certificates of Insurance issued to consumers during the IMA Relevant Period by IMA under the RACV brand, which contained one or more of the following statements from time to time:

- (a) ‘Discounts’ included a ‘Multi-Policy Discount’ and a ‘Years of Membership Benefit’;
- (b) the consumer’s policy ‘benefits from a years of Membership discount based on the highest Years of Membership of all insureds’;
- (c) that ‘by renewing [the] Insurance, [the consumer] will continue to be a member of RACV, which gives [the consumer] access to...a 15% [Gold] discount on most RACV products, including Insurance...as part of our years of membership benefits program’, or variations of this statement referring to a particular percentage rate of discount; and
- (d) that a consumer was entitled to a ‘Gold...Years of Membership Benefit’ or a ‘Silver...Years of Membership Benefit’ or a ‘Bronze...Years of Membership Benefit’.

The Second Plaintiff otherwise refers to the particulars to paragraph 7 above in relation to the Certificates of Insurance received by her.

- 24. Each of the IMA Insurance Policies was a financial product within the meaning of s 763A and s 763C of the Corporations Act and s 12BAA of the ASIC Act.
- 25. By reason of the matters pleaded at paragraphs 21 to 24, at all relevant times, IMA:
 - (a) in trade or commerce, provided a financial service to the Second Plaintiff and the IMA Group Members within the meaning of s 12BAB of the ASIC Act;
 - (b) provided a financial service to the Second Plaintiff and the IMA Group Members within the meaning of s 766A of the Corporations Act; and
 - (c) dealt in a financial product in relation to the Second Plaintiff and the IMA Group Members within the meaning of s 766C of the Corporations Act and s 12BAB(7) of the ASIC Act.

E. EXPRESS AND IMPLIED REPRESENTATIONS

The IAL SGIO/SGIC Representations

26. During the SGI Relevant Period, IAL represented to the First Plaintiff and the IAL SGI Group Members that it calculated the IAL Offer made to the First Plaintiff and the IAL SGI Group Members by:
- (a) first determining an initial premium for each consumer (the **Initial Premium**); and
 - (b) then deducting from that Initial Premium any applicable SGIO/SGIC Loyalty Discount; and
 - (c) arriving at the **Final Premium** (which includes government charges), as a result of the process described above, which was stated in the Certificate of Insurance, and expressed either as an annual amount and/or by reference to monthly instalments (the **IAL SGI Final Premium Calculation Representation**).

PARTICULARS

The IAL SGI Final Premium Calculation Representation was partly express and was partly to be implied.

The IAL SGI Final Premium Calculation Representation was express in so far as the Certificate of Insurance stated that the premium included a SGIO/SGIC Loyalty Discount.

The IAL SGI Final Premium Calculation Representation was to be implied from the fact that any applicable SGIO/SGIC Loyalty Discount was described on Certificates of Insurance as either or both of a dollar or percentage discount, which was described as referable to and as having been deducted from the premium that would have applied, but for the application of the SGIO/SGIC Loyalty Discount, and from the absence of any further detailed explanation as to how IAL Offers were calculated in the Certificates of Insurance.

The First Plaintiff otherwise refers to and repeats the particulars to paragraph 6 above. Further particulars may be provided after discovery and evidence and before trial.

27. During the SGI Relevant Period, the Certificates of Insurance issued by IAL:
- (a) for the First Plaintiff and the IAL SGI Group Members, set out a summary of the number of years for which IAL Insurance Policies had been held, and the number of IAL Insurance Policies held, by the First Plaintiff and the IAL SGI Group Member; and
 - (b) for IAL SGI Group Members, made the following statements in relation to the SGIO/SGIC Loyalty Discount:
 - i. a ‘Loyalty Discount’ was ‘included’ in the Final Premium; or
 - ii. from no later than 2017, Certificates of Insurance provided to some IAL SGI Group Members expressed any applicable ‘Loyalty Discount’ both as a percentage figure and in dollar terms;
 - iii. from no later than July 2018, Certificates of Insurance provided to some IAL SGI Group Members stated that the Loyalty Discount had been ‘determined’ by reference to the list of policies held by that IAL SGI Group Member;
 - iv. from no later than July 2018, Certificates of Insurance provided to some IAL SGI Group Members stated that the Final Premium had been calculated ‘less’ any applicable Loyalty Discount;
 - v. from between no later than 30 May 2018 and 1 May 2019, Certificates of Insurance provided to some IAL SGI Group Members contained the following statement: *‘Save More with a Loyalty Discount The more policies you have and the longer you are with us, the bigger your discount. Take out any other eligible policies to maximise your savings today.’*
 - (c) for the First Plaintiff, contained the statements referred to at 27(b)(i), (ii) and (iv) above.

PARTICULARS

The First Plaintiff refers to the particulars to paragraph 6 above.

28. By making the statements pleaded above at paragraph 27, IAL expressly represented to the First Plaintiff and the IAL SGI Group Members that:

- (a) the longer that the First Plaintiff and the IAL SGI Group Members held IAL Insurance Policies, the bigger the SGIO/SGIC Loyalty Discount they would receive the benefit of when renewing an IAL Insurance Policy; and/or
- (b) the more eligible insurance policies with IAL under the SGIO/SGIC brands, including IAL Insurance Policies, that the First Plaintiff and the IAL SGI Group Members held, the bigger the SGIO/SGIC Loyalty Discount they would receive the benefit of when renewing an IAL Insurance Policy; and/or
- (c) the application of the SGIO/SGIC Loyalty Discount to the First Plaintiff's and an IAL SGI Group Member's Initial Premium caused the Final Premium in the IAL Offer to be a certain percentage lower and/or a certain dollar amount lower than the Final Premium which the First Plaintiff and the IAL SGI Group Member would otherwise have paid when renewing an IAL Insurance Policy, had the First Plaintiff and the IAL SGI Group Member not been entitled to the application of the SGIO/SGIC Loyalty Discount; and/or
- (d) the application of an SGIO/SGIC Loyalty Discount constituted an actual monetary benefit in the form of a saving to the First Plaintiff and the IAL SGI Group Members, because it was a discount which applied to reduce the Initial Premium, prior to arriving at the Final Premium contained in the IAL Offer made to the First Plaintiff and the IAL SGI Group Members; and/or
- (e) the value of the actual monetary benefit of the SGIO/SGIC Loyalty Discount to the First Plaintiff and the IAL SGI Group Members was equal to the difference (in the form of either a certain percentage difference and/or a certain dollar amount) between the First Plaintiff's and the IAL SGI Group Members' Initial Premium and the Final Premium as quoted on the Certificate of Insurance and constituting the IAL Offer,

(the IAL SGI Express Loyalty Discount Representations).

29. In addition, or in the alternative, by making the statements pleaded above at paragraph 27, IAL impliedly represented to the First Plaintiff and the IAL SGI Group Members that:

- (a) the application of a SGIO/SGIC Loyalty Discount to the First Plaintiff's and an IAL SGI Group Member's Initial Premium caused the First Plaintiff and the IAL SGI Group Member's Final Premium contained in the IAL Offer to be lower than the Final Premium which would otherwise have been payable by the First Plaintiff and the IAL SGI Group Member when renewing their IAL Insurance Policy if they had not been entitled to a SGIO/SGIC Loyalty Discount; and/or
- (b) the application of a SGIO/SGIC Loyalty Discount to the First Plaintiff's and an IAL SGI Group Member's Initial Premium caused the First Plaintiff's and the IAL SGI Group Member's Final Premium contained in the IAL Offer to be lower than the Final Premium which would be payable by a new customer seeking to purchase the same or a similar IAL Insurance Policy for the first time in relevantly the same circumstances, where that new customer was not entitled to a SGIO/SGIC Loyalty Discount,

(the **IAL SGI Implied Loyalty Discount Representations**).

PARTICULARS

The IAL SGI Implied Loyalty Discount Representations are to be implied by reason of the express words used in the Certificates of Insurance, including the following:

- (a) the Certificate of Insurance was a formal document which constituted the IAL Offer;
- (b) the First Plaintiff and the IAL SGI Group Members were renewing an IAL Insurance Policy with an insurer with which they already had a customer relationship; and
- (c) the use in the Certificate of Insurance of the terms 'discount', 'deducted', 'less', 'save' and 'savings' in proximity to the word 'loyalty'.

The First Plaintiff otherwise refers to and repeats the particulars to paragraph 6 above. Further particulars may be provided after discovery and evidence and before trial.

30. Together and separately, the IAL SGI Express Loyalty Discount Representations and the IAL SGI Implied Loyalty Discount Representations are **the IAL SGI Loyalty Discount Representations**.
31. To the extent that any of the IAL SGI Loyalty Discount Representations and the IAL SGI Final Premium Calculation Representation were representations with respect to future matters, IAL did not have reasonable grounds for making the representations and the First Plaintiff and IAL SGI Group Members rely on s 769C of the Corporations Act and s 12BB of the ASIC Act in relation to them.
32. IAL did not withdraw or qualify the IAL SGI Loyalty Discount Representations or the IAL SGI Final Premium Calculation Representation at any time during the period of operation of any of the IAL SGI Insurance Policies, and as a result the IAL SGI Loyalty Discount Representations and the IAL SGI Final Premium Calculation Representation were continuing representations throughout the SGI Relevant Period.

The IAL NRMA Representations

33. During the NRMA Relevant Period, IAL represented to the Third Plaintiff and the IAL NRMA Group Members that it calculated the IAL Offer made to the Third Plaintiff and the IAL NRMA Group Members by:
- (a) first determining an Initial Premium; and
 - (b) then deducting from that Initial Premium any applicable NRMA Loyalty Discount; and
 - (c) arriving at the Final Premium (which includes government charges), as a result of the process described above, which was stated in the Certificate of Insurance, and expressed either as an annual amount and/or by reference to monthly instalments (the **IAL NRMA Final Premium Calculation Representation**).

PARTICULARS

The IAL NRMA Final Premium Calculation Representation was partly express and was partly to be implied.

The IAL NRMA Final Premium Calculation Representation was express in so far as the Certificates of Insurance Stated that the premium included an NRMA Loyalty Discount.

The IAL NRMA Final Premium Calculation Representation was to be implied from the fact that any applicable NRMA Loyalty Discount was described on Certificates of Insurance as either or both of a dollar or percentage discount, which was described as referable to and as having been deducted from the premium that would have applied, but for the application of the NRMA Loyalty Discount, and from the absence of any further detailed explanation as to how IAL Offers were calculated in the Certificates of Insurance.

The Third Plaintiff otherwise refers to and repeats the particulars to paragraph 8 above. Further particulars may be provided after discovery and evidence and before trial.

34. During the NRMA Relevant Period, the Certificates of Insurance issued by IAL:
- (a) for the Third Plaintiff and the IAL NRMA Group Members, set out a summary of the number of years for which the applicable Insurance Policy had been held, and the number of eligible policies with IAL under the NRMA brand, including other insurance policies held by the Third Plaintiff and the IAL NRMA Group Member; and
 - (b) for IAL NRMA Group Members, made the following statements in relation to the NRMA Loyalty Discount:
 - i. the relevant discount for the IAL NRMA Group Member was ‘included’ in the Final Premium; or
 - ii. prior to about May 2022, Certificates of Insurance provided to some IAL NRMA Group Members expressed any applicable NRMA Loyalty Discount as a percentage figure and in dollar terms;
 - iii. on and after about May 2022, Certificates of Insurance provided to IAL NRMA Group Members expressed any applicable NRMA Loyalty Discount as a percentage figure;
 - iv. prior to about July 2024, Certificates of Insurance provided to some IAL NRMA Group Members stated that the NRMA Loyalty Discount had been ‘determined’ by reference to the list of policies held by that IAL NRMA Group Member;

- v. prior to about July 2024, Certificates of Insurance provided to some IAL NRMA Group Members stated that the Final Premium had been calculated 'less' any applicable NRMA Loyalty Discount;
 - vi. prior to about July 2024, Certificates of Insurance provided to some IAL NRMA Group Members contained the following statement:
'Save More with a Loyalty Discount The more policies you have and the longer you are with us, the bigger your discount. Take out any other eligible policies to maximise your savings today;'
 - vii. prior to about July 2024, Certificates of Insurance provided to some IAL NRMA Group Members contained the following statement:
'Maximise your Loyalty Discount Your Loyalty Discount rewards you for your entire relationship with us. So the longer you stay and the more policies you have, the greater your Loyalty Discount. Now is a great time to take out other eligible policies as you could receive an even bigger discount;'
 - viii. prior to about July 2024, Certificates of Insurance provided to some IAL NRMA Group Members contained the following statement:
'Thank you for your loyalty To thank you for being with us for more than 25 years, your Loyalty Discount won't decrease - even if you reduce your number of eligible policies to just one. So while your Loyalty Discount can go up to 25%, it will not go down.'
- (c) for the Third Plaintiff, contained the statements referred to at paragraphs 34(b)(i), (ii), (iii), (iv) and (vii) above.

PARTICULARS

The Third Plaintiff refers to the particulars to paragraph 8 above.

35. By making the statements pleaded above at paragraph 34, IAL expressly represented to the Third Plaintiff and the IAL NRMA Group Members that:

- (a) the longer that the Third Plaintiff and IAL NRMA Group Members held IAL Insurance Policies, the bigger the NRMA Loyalty Discount they would receive the benefit of when renewing an IAL Insurance Policy; and/or
- (b) the more eligible insurance policies with IAL under the NRMA brand, including IAL Insurance Policies, that the Third Plaintiff and the IAL NRMA Group Members held, the bigger the NRMA Loyalty Discount they would receive the benefit of when renewing an IAL Insurance Policy; and/or
- (c) the application of the NRMA Loyalty Discount to the Third Plaintiff's and an IAL NRMA Group Member's Initial Premium caused the Final Premium in the IAL Offer to be a certain percentage lower and/or a certain dollar amount lower than the Final Premium which the Third Plaintiff and the IAL NRMA Group Member would otherwise have paid when renewing an IAL Insurance Policy, had the Third Plaintiff and the IAL NRMA Group Member not been entitled to the application of the NRMA Loyalty Discount; and/or
- (d) the application of a NRMA Loyalty Discount constituted an actual monetary benefit in the form of a saving to the Third Plaintiff and the IAL NRMA Group Members, because it was a discount which applied to reduce the Initial Premium, prior to arriving at the Final Premium contained in the IAL Offer made to the Third Plaintiff and the IAL NRMA Group Members; and/or
- (e) the value of the actual monetary benefit of the NRMA Loyalty Discount to the Third Plaintiff and the IAL NRMA Group Members was equal to the difference (in the form of either a certain percentage difference and/or a certain dollar amount) between the Third Plaintiff's and the IAL NRMA Group Members' Initial Premium and the Final Premium as quoted on the Certificate of Insurance and constituting the IAL Offer,

(the IAL NRMA Express Loyalty Discount Representations).

36. In addition, or in the alternative, by making the statements pleaded above at paragraph 34 and in all the circumstances, IAL impliedly represented to the Third Plaintiff and the IAL NRMA Group Members that:

- (a) the application of a NRMA Loyalty Discount to the Third Plaintiff's and the IAL NRMA Group Members' Initial Premium caused the Third Plaintiff and the IAL NRMA Group Members' Final Premium contained in the IAL Offer to be lower than the Final Premium which would otherwise have been payable by the Third Plaintiff and the IAL NRMA Group Members when renewing their IAL Insurance Policy if they had not been entitled to a NRMA Loyalty Discount; and/or
- (b) the application of a NRMA Loyalty Discount to the Third Plaintiff's and the IAL NRMA Group Members' Initial Premium caused the Third Plaintiff's and the IAL NRMA Group Members' Final Premium contained in the IAL Offer to be lower than the Final Premium which would be payable by a new customer seeking to purchase the same or a similar IAL Insurance Policy for the first time in relevantly the same circumstances, where that new customer was not entitled to a NRMA Loyalty Discount,

(the **IAL NRMA Implied Loyalty Discount Representations**).

PARTICULARS

The IAL NRMA Implied Loyalty Discount Representations are to be implied by reason of the express words used in the Certificates of Insurance, including the following:

- (a) the Certificate of Insurance was a formal document which constituted the IAL Offer;
- (b) the Third Plaintiff and the IAL NRMA Group Members were renewing an IAL Insurance Policy with an insurer with which they already had a customer relationship; and
- (c) the use in the Certificate of Insurance of the terms 'discount', 'deducted', 'less', 'save' and 'savings' in proximity to the word 'loyalty'.

The Third Plaintiff otherwise refers to and repeats the particulars in paragraph 8 above. Further particulars may be provided after discovery and evidence and before trial.

37. Together and separately, the IAL NRMA Express Loyalty Discount Representations and the IAL NRMA Implied Loyalty Discount Representations are the **IAL NRMA Loyalty Discount Representations**.
38. To the extent that any of the IAL NRMA Loyalty Discount Representations and the IAL NRMA Final Premium Calculation Representation were representations with respect to future matters, IAL did not have reasonable grounds for making the representations and the Third Plaintiff and IAL NRMA Group Members rely on s 769C of the Corporations Act and s 12BB of the ASIC Act in relation to them.
39. IAL did not withdraw or qualify the IAL NRMA Loyalty Discount Representations or the IAL NRMA Final Premium Calculation Representation at any time during the period of operation of any of the IAL Insurance Policies, and as a result the IAL NRMA Loyalty Discount Representations and the IAL NRMA Final Premium Calculation Representation were continuing representations throughout the NRMA Relevant Period.

The IMA Representations

40. During the IMA Relevant Period, IMA represented to the Second Plaintiff and the IMA Group Members that it calculated the IMA Offer made to the Second Plaintiff and the IMA Group Members by:
- (a) first determining an Initial Premium for each consumer; and
 - (b) then deducting from that Initial Premium any applicable RACV Loyalty Discount; and
 - (c) stating the Final Premium (which includes government charges) reached as the result of the above process in the Certificate of Insurance, expressed either as an annual amount and/or by reference to monthly instalments (the **IMA Final Premium Calculation Representation**).

PARTICULARS

The IMA Final Premium Calculation Representation was partly express and was partly to be implied.

The IMA Final Premium Calculation Representation was express in so far as the Certificate of Insurance stated that the premium included a RACV Loyalty Discount.

The IMA Final Premium Calculation Representation was to be implied from the fact that any applicable RACV Loyalty Discount was described on Certificates of Insurance as either or both of a dollar or percentage discount, which was described as referable to and as having been deducted from the premium that would have applied but for the application of the RACV Loyalty Discount and from the absence of any further detailed explanation as to how IMA Offers were calculated in the Certificates of Insurance.

The Second Plaintiff otherwise refers to and repeats the particulars to paragraph 7 above. Further particulars may be provided after discovery and before trial.

41. During the IMA Relevant Period, the Certificates of Insurance issued by IMA:
- (a) for the Second Plaintiff and the IMA Group Members, identified the level of ‘Years of Membership Benefit’ (being Gold, Silver or Bronze), and whether the Second Plaintiff and the IMA Group Members held multiple policies with RACV;
 - (b) for some IMA Group Members made the following statements in relation to the RACV Loyalty Discount:
 - i. identified the RACV Loyalty Discount that the Second Plaintiff and the IMA Group Members had been provided with, if eligible, expressed:
 - A. in dollar terms if a Multi-Policy Discount had been applied; and
 - B. in dollar terms and/or as a percentage if a Years of Membership Discount had been applied, with the percentage being referable to the premium set out in the Certificate of Insurance; and
 - C. for Years of Membership Discounts described as either ‘Bronze’, ‘Silver’ or ‘Gold’ depending on the length of membership;

- ii. stated that any ‘discounts’ identified on the Certificate of Insurance ‘have already been deducted from [the consumer’s] premium’;
- (c) for some IMA Group Members contained the following statements:
 - i. **‘RACV’s Multi-Policy Discount** *We’re all about returning value to our members and with RACV’s Multi-Policy Discount the more insurance policies you have the more you save’*;
 - ii. *‘As you hold two or more RACV Insurance policies, you will receive 10% off each one. This discount has been automatically applied to your renewal premium’*, or variations on this statement expressed in a manner relevant to the particular IMA Group Member’s particular circumstances; and
 - iii. *‘Your policy benefits from a Years of Membership discount...’*; and
- (d) for the Second Plaintiff, contained the statements referred to at paragraphs 41(a), (b)(i)-(ii) and (c)(iii).

PARTICULARS

The Second Plaintiff refers to the particulars to paragraph 7 above.

42. By making the statements pleaded above at paragraph 41, IMA expressly represented to the Second Plaintiff and IMA Group Members that:
- (a) the longer that the Second Plaintiff and the IMA Group Members held IMA Insurance Policies, the bigger the RACV Loyalty Discount they would receive the benefit of when renewing an IMA Insurance Policy; and/or
 - (b) if the Second Plaintiff and the IMA Group Members held multiple eligible IMA Insurance Policies, they would receive an RACV Loyalty Discount which they would receive the benefit of when renewing an IMA Insurance Policy; and/or
 - (c) the application of the RACV Loyalty Discount to the Second Plaintiff’s and an IMA Group Member’s Initial Premium caused the Final Premium in the

IMA Offer to be a certain percentage lower and/or a certain dollar amount lower than the Final Premium which the Second Plaintiff and the IMA Group Member would otherwise have paid when renewing an IMA Insurance Policy, had the Second Plaintiff and the IMA Group Member not been entitled to the application of the RACV Loyalty Discount; and/or

- (d) the application of a RACV Loyalty Discount constituted an actual monetary benefit in the form of a saving to the Second Plaintiff and the IMA Group Members, because it was a discount which applied to reduce the Initial Premium, prior to arriving at the Final Premium contained in the IMA Offer made to the Second Plaintiff and the IMA Group Members; and/or
- (e) the value of the actual monetary benefit of the RACV Loyalty Discount to the Second Plaintiff and the IMA Group Members was equal to the difference (in the form of either a certain percentage difference and/or a certain dollar amount) between the Second Plaintiff's and the IMA Group Members' Initial Premium and the Final Premium as quoted on the Certificate of Insurance and constituting the IMA Offer;

(the **IMA Express Loyalty Discount Representations**).

43. In addition, or in the alternative, by making the statements pleaded at paragraph 41, IMA impliedly represented to the Second Plaintiff and the IMA Group Members that:

- (a) the application of a RACV Loyalty Discount to the Second Plaintiff's and an IMA Group Member's Initial Premium caused the Second Plaintiff's and the IMA Group Member's Final Premium contained in the IMA Offer to be lower than the Final Premium which would otherwise have been payable by the Second Plaintiff and the IMA Group Member when renewing their IMA Insurance Policy if they had not been entitled to a RACV Loyalty Discount; and/or
- (b) the application of a RACV Loyalty Discount to the Second Plaintiff's and an IMA Group Member's Initial Premium caused the Second Plaintiff's and the IMA Group Member's Final Premium contained in the IMA Offer to be lower than the Final Premium which would be payable by a new customer seeking

to purchase the same or a similar IMA Insurance Policy for the first time in relevantly the same circumstances, where that new customer was not entitled to a RACV Loyalty Discount;

(the **IMA Implied Loyalty Discount Representations**).

PARTICULARS

The IMA Implied Loyalty Discount Representations are to be implied by reason of the express words used in the Certificates of Insurance in combination with the following circumstances:

- (a) the Certificate of Insurance was a formal document which constituted the IMA Offer;
- (b) the Second Plaintiff and the IMA Group Members were renewing an IMA Insurance Policy with an insurer with which they already had a customer relationship; and
- (c) the use in the Certificate of Insurance of the terms ‘discount’, ‘deducted’, ‘value’, ‘benefits’ and ‘save’ in proximity to the phrases ‘[gold, silver or bronze] years of membership benefit’, and ‘multi policy discount.’

The Second Plaintiff otherwise refers to and repeats the particulars to paragraph 7 above. Further particulars may be provided after discovery and evidence and before trial.

- 44. Together and separately, the IMA Express Loyalty Discount Representations and the IMA Implied Loyalty Discount Representations are the **IMA Loyalty Discount Representations**.
- 45. To the extent that any of the IMA Final Premium Calculation Representation or the IMA Loyalty Discount Representations were representations with respect to future matters, IMA did not have reasonable grounds for making the representations and the Second Plaintiff and IMA Group Members rely on s 769C of the Corporations Act and s 12BB of the ASIC Act in relation to them.
- 46. IMA did not withdraw or qualify the IMA Final Premium Calculation Representation or the IMA Loyalty Discount Representations at any time during the period of operation of any of the IMA Insurance Policies, and as a result the IMA Loyalty Discount Representations and the IMA Final Premium Calculation Representation were continuing representations throughout the IMA Relevant Period.

F. THE TRUE POSITION

IAL True Position

47. During the SGI Relevant Period and the NRMA Relevant Period, IAL used algorithmic modelling to calculate the Initial Premiums for consumers, including the IAL Plaintiffs and the IAL Group Members.
48. The algorithmic modelling used by IAL in calculating the Initial Premiums for existing IAL policy holders, including the IAL Plaintiffs and IAL Group Members, included modelling that estimated the likelihood of existing IAL policy holders renewing an IAL Insurance Policy and the price at which existing IAL policy holders would be likely to accept an IAL Offer (**IAL Demand Modelling**).
49. The IAL Demand Modelling took into account a number of factors, including:
 - (a) for the First Plaintiff and the IAL SGI Group Members:
 - i. the length of time that the existing IAL policy holder had been a customer with SGIO or SGIC; and
 - ii. the number of policies that the existing IAL policy holder held with SGIO or SGIC;
 - (b) for the Third Plaintiff and the IAL NRMA Group Members:
 - i. the length of time that the existing IAL policy holder had been a customer with NRMA; and
 - ii. the number of policies that the existing IAL policy holder held with NRMA.
50. For at least some IAL Group Members (and possibly including the First Plaintiff and the Third Plaintiff), the use by IAL of the IAL Demand Modelling resulted in the algorithmic modelling causing an increase to the Initial Premium (the **Loyalty Uplift**).

51. In relation to at least some IAL Group Members (and possibly including the First Plaintiff and the Third Plaintiff), the matters pleaded at paragraphs 48 to 50 had the effect that, for the IAL Group Members:

- (a) the dollar value of the Loyalty Uplift which was applied to increase their Initial Premium was greater than the dollar value of the SGIO/SGIC Loyalty Discount (for IAL SGI Group Members) and the NRMA Loyalty Discount (for IAL NRMA Group Members) subsequently applied to their Initial Premium, with the effect that the IAL Group Members' Final Premium was the same as or higher than their Initial Premium they would have received, but for the Loyalty Uplift; and/or
- (b) the Final Premium was higher than it would have been had a Loyalty Uplift not first been applied so as to increase their Initial Premium prior to the application of the SGIO/SGIC Loyalty Discount (for IAL SGI Group Members) or the NRMA Loyalty Discount (for IAL NRMA Group Members); and/or
- (c) the SGIO/SGIC Loyalty Discount (for IAL SGI Group Members) and the NRMA Loyalty Discount (for IAL NRMA Group Members) ostensibly applied to their benefit in the IAL Offer was in fact of no value at all, or was of less value than the percentage or dollar figure shown on the Certificate of Insurance as constituting the ostensible Loyalty Discount; and/or
- (d) the Final Premium contained in the IAL Offer made to the IAL SGI Group Member or the IAL NRMA Group Member (as applicable) was higher than it would have been had a Loyalty Uplift not been applied so as to increase the Initial Premium of that Group Member; and/or
- (e) the application of the SGIO/SGIC Loyalty Discount (for IAL SGI Group Members) and the NRMA Loyalty Discount (for IAL NRMA Group Members) did not serve to render the Final Premium paid by the Group Members any less than would have been the case had they been a new customer not entitled to the application of a SGIO/SGIC Loyalty Discount (for IAL SGI Group Members) or a NRMA Loyalty Discount (for IAL

NRMA Group Members) seeking to purchase the same or similar IAL Insurance Policy in the same or similar circumstances.

52. By reason of the matters pleaded at paragraph 51, the IAL Offers were made by IAL in circumstances where IAL knew or ought reasonably to have known that:

- (a) a Loyalty Uplift had been applied to the Initial Premiums of at least some IAL Group Members (possibly including the Initial Premium of the First Plaintiff and the Initial Premium of the Third Plaintiff); and/or
- (b) the application of a Loyalty Uplift to the Initial Premiums of at least some IAL Group Members (possibly including the Initial Premium of the First Plaintiff and the Third Plaintiff) had the effect pleaded in paragraph 51 above in relation to the Final Premium of those Group Members; and/or
- (c) there was a risk that a Loyalty Uplift had been applied to the Initial Premiums of any particular IAL Group Member (including the First Plaintiff and the Third Plaintiff), with the effect pleaded in paragraph 51 above in relation to any of those Group Members.

PARTICULARS

IAL's state of mind is to be inferred from:

- (a) the knowledge of its directors, officers, servants and agents responsible for:
 - i. designing and/or implementing and/or approving the use of IAL's algorithmic modelling to calculate Initial Premiums; and
 - ii. approving the terms and content of the Certificates of Insurance, including the Final Premium, issued to the IAL Plaintiffs and the IAL Group Members;
- (b) the fact that IAL is an expert in designing, marketing, pricing and issuing insurance products; and
- (c) the matters pleaded at paragraphs 47 to 52.

Further particulars may be provided after discovery and evidence and before trial.

53. IAL did not disclose or did not adequately disclose to the IAL Plaintiffs or the IAL Group Members, alternatively did not disclose or adequately disclose to the affected IAL Group Members, the matters alleged at paragraphs 47 to 52 above.

54. Alternatively, IAL did not disclose or did not adequately disclose to the IAL Plaintiffs or the IAL Group Members that:
- (a) there was a risk that the matters alleged at paragraphs 50 and 51 had affected the Final Premium contained in an IAL Offer made to the First Plaintiff and any particular IAL SGI Group Member and the Third Plaintiff and any particular IAL NRMA Group Member (as the case may be); and
 - (b) IAL did not know whether, or the extent to which the Final Premium contained in the IAL Offer made to the First Plaintiff and any particular IAL SGI Group Member and the Third Plaintiff and any particular IAL NRMA Group Member had been affected by the matters alleged at paragraphs 50 and 51 above.
55. The matters alleged at paragraphs 47 to 54 constituted material information in relation to the IAL Offers made to the IAL Plaintiffs and the IAL Group Members for the purposes of the IAL Plaintiffs and the IAL Group Members deciding whether to renew an IAL Insurance Policy by accepting an IAL Offer.
56. IAL knew or ought reasonably to have known that absent full and complete disclosure to the IAL Plaintiffs and the IAL Group Members of all material information in relation to the IAL Offers, the IAL Plaintiffs and the IAL Group Members would or may act contrary to their financial interests by renewing their existing IAL Insurance Policy by:
- (a) accepting an IAL Offer in circumstances where the matters alleged at paragraphs 50 and 51 had affected the Final Premium contained in the IAL Offer made to the First Plaintiff and the IAL SGI Group Member on the one hand and the Third Plaintiff and the IAL NRMA Group Member on the other; or
 - (b) accepting an IAL Offer in circumstances where there was a risk that the matters in paragraphs 50 and 51 had affected the Final Premium contained in the IAL Offer made to the First Plaintiff and the IAL SGI Group Member on the one hand and the Third Plaintiff and the IAL NRMA Group Member on the other; or

- (c) accepting an IAL Offer other than on a fully informed basis; or
- (d) refraining from requesting that IAL recalculate their Final Premium without the application of a Loyalty Uplift to the Initial Premium; or
- (e) refraining from requesting that IAL apply a further discount to their Final Premium; or
- (f) refraining from seeking an alternative insurance policy from another provider in the market at a lower price than the Final Premium in the IAL Offer.

PARTICULARS

IAL's state of mind is to be inferred from:

- (a) the knowledge of its directors, officers, servants and agents responsible for:
 - i. designing and/or implementing and/or approving the use of IAL's algorithmic modelling to calculate Initial Premiums; and
 - ii. approving the terms and content of the Certificates of Insurance, including the Final Premium, issued to the First Plaintiff and the IAL SGI Group Members, including the way in which the SGIO/SGIC Loyalty Discounts were promoted, and the Third Plaintiff and the IAL NRMA Group Members, including the way in which the NRMA Loyalty Discounts were promoted;
- (b) the fact that IAL is an expert in designing, marketing, pricing and issuing insurance products; and
- (c) the matters pleaded at paragraphs 47 to 56.

Further particulars may be provided after discovery and evidence and before trial.

- 57. The First Plaintiff and the IAL SGI Group Members had, or were likely to have had, a reasonable expectation that IAL would disclose or adequately disclose to them all material information of which IAL was aware concerning the process by which the Initial Premiums and Final Premiums of the First Plaintiff and the IAL SGI Group Members were calculated, including that a Loyalty Uplift had been applied to the Initial Premium, or the risk that a Loyalty Uplift had been applied to the Initial Premium.
- 58. The Third Plaintiff and the IAL NRMA Group Members had, or were likely to have had, a reasonable expectation that IAL would disclose or adequately disclose to them

all material information of which IAL was aware concerning the process by which the Initial Premiums and Final Premiums of the Third Plaintiff and the IAL NRMA Group Members were calculated, including that a Loyalty Uplift had been applied to the Initial Premium, or the risk that a Loyalty Uplift had been applied to the Initial Premium.

59. By reason of the matters pleaded at paragraphs 53 to 58, the IAL Plaintiffs and the IAL Group Members were not informed of all material information that was relevant to the decision to accept or reject an IAL Offer (the **IAL Material Non-Disclosure**).

60. Further and in the alternative, by reason of the IAL Material Non-Disclosure, IAL represented to:

(a) the First Plaintiff and the IAL SGI Group Members that:

- i. the Initial Premium calculated for the First Plaintiff and each IAL SGI Group Member was based upon matters related only to the asset(s) being insured, the risk profile of the insured, and the cost to IAL of providing that IAL Insurance Policy; and
- ii. the factors relevant to the SGIC/SGIO Loyalty Discount would be applied for the benefit of the First Plaintiff and the IAL SGI Group Member in the form of a saving on or reduction of their Final Premium;

(b) the Third Plaintiff and the IAL NRMA Group Members that:

- i. the Initial Premium calculated for the Third Plaintiff and each IAL NRMA Group Member was based upon matters related only to the asset(s) being insured, the risk profile of the insured, and the cost to IAL of providing that IAL Insurance Policy; and
- ii. the factors relevant to the NRMA Loyalty Discount would be applied for the benefit of the Third Plaintiff and the IAL NRMA Group Member in the form of a saving on or reduction of their Final Premium,

(each of representations pleaded at paragraphs 60(a) and (b) is the **IAL Silence Representation**).

61. To the extent that the IAL Silence Representation was a representation with respect to future matters, IAL did not have reasonable grounds for making it, and the IAL Plaintiffs and the IAL Group Members rely on s 769C of the Corporations Act and s 12BB of the ASIC Act in relation to it.
62. IAL did not withdraw or qualify the IAL Silence Representation at any time during the period of operation of any of the IAL Insurance Policies and as a result, the IAL Silence Representation was a continuing representation throughout the SGI Relevant Period and NRMA Relevant Period.

IMA True Position

63. During the IMA Relevant Period, IMA used algorithmic modelling to calculate the Initial Premiums for consumers, including the Second Plaintiff and the IMA Group Members.
64. The algorithmic modelling used by IMA in calculating the Initial Premiums for existing IMA policy holders, including the Second Plaintiff and the IMA Group Members, included modelling that estimated the likelihood of existing IMA policy holders renewing an IMA Insurance Policy and the price at which existing IMA policy holders would be likely to accept an IMA Offer (**IMA Demand Modelling**).
65. The IMA Demand Modelling took into account a number of factors including:
 - (a) the length of time that the existing IMA policy holder had been a customer with RACV; and
 - (b) the number of policies that the existing IMA policy holder held with RACV.
66. For at least some IMA Group Members (and possibly including the Second Plaintiff), the use by IMA of the IMA Demand Modelling resulted in the algorithmic modelling causing an increase to their Initial Premium (being a Loyalty Uplift).
67. In relation to at least some IMA Group Members (and possibly including the Second Plaintiff), the matters pleaded at paragraphs 63 to 66 had the effect that:

- (a) the dollar value of the Loyalty Uplift which was applied to increase their Initial Premium was greater than the dollar value of the RACV Loyalty Discount subsequently applied to their Initial Premium, with the effect that the IMA Group Member's Final Premium was the same as or higher than ~~their~~ Initial Premium they would have received, but for the Loyalty Uplift; and/or
- (b) the IMA Group Member's Final Premium was higher than it would have been had a Loyalty Uplift not first been applied so as to increase their Initial Premium prior to the application of the RACV Loyalty Discount; and/or
- (c) the RACV Loyalty Discount ostensibly applied to their benefit in the IMA Offer was in fact of no value at all, or was of less value than the percentage or dollar figure shown on the Certificate of Insurance as constituting the ostensible Loyalty Discount; and/or
- (d) the Final Premium contained in the IMA Offer made to the IMA Group Member was higher than it would have been had a Loyalty Uplift not been applied so as to increase the Initial Premium of that IMA Group Member; and/or
- (e) the application of the RACV Loyalty Discount did not serve to render the Final Premium paid by the IMA Group Members any less than would have been the case had they been a new customer not entitled to the application of a RACV Loyalty Discount seeking to purchase the same or similar IMA Insurance Policy in the same or similar circumstances.

68. By reason of the matters pleaded at paragraph 67, the IMA Offers were made by IMA in circumstances where IMA knew or ought reasonably to have known that:

- (a) a Loyalty Uplift had been applied to the Initial Premiums of at least some IMA Group Members (possibly including the Second Plaintiff); and/or
- (b) the application of a Loyalty Uplift to the Initial Premiums of at least some IMA Group Members (possibly including the Second Plaintiff) had the effect

pleaded in paragraph 67 above in relation to Final Premiums of those IMA Group Members; and/or

- (c) there was a risk that a Loyalty Uplift had been applied to the Initial Premiums of any particular IMA Group Member (including the Second Plaintiff), with the effect pleaded in paragraph 67 above in relation to any of those IMA Group Members.

PARTICULARS

IMA's state of mind is to be inferred from:

- (a) the knowledge of its directors, officers, servants and agents responsible for:
 - i. designing and/or implementing and/or approving the use of IMA's algorithmic modelling to calculate Initial Premiums; and
 - ii. approving the terms and content of the Certificates of Insurance, including the Final Premium, issued to the Second Plaintiff and the IMA Group Members;
- (b) the fact that IMA is an expert in designing, marketing, pricing and issuing insurance products; and
- (c) the matters pleaded at paragraphs 63 to 68.

Further particulars may be provided after discovery and evidence and before trial.

69. IMA did not disclose or did not adequately disclose to the Second Plaintiff or the IMA Group Members, alternatively did not disclose or did not adequately disclose to the affected IMA Group Members, the matters alleged at paragraphs 63 to 67 above.

70. Alternatively, IMA did not disclose or did not adequately disclose to the Second Plaintiff and the IMA Group Members that:

- (a) there was a risk that the matters alleged at paragraphs 66 and 67 had affected the Final Premium contained in an IMA Offer made to the Second Plaintiff and any particular IMA Group Member; and
- (b) IMA did not know whether, or the extent to which the Final Premium contained in the IMA Offer made to the Second Plaintiff and any particular IMA Group Member had been affected by the matters alleged at paragraphs 66 and 67 above.

71. The matters alleged at paragraphs 66 to 70 constituted material information in relation to the IMA Offers made to the Second Plaintiff and the IMA Group Members for the purposes of the Second Plaintiff and the IMA Group Members deciding whether to renew an IMA Insurance Policy by accepting an IMA Offer.
72. IMA knew or ought reasonably to have known that absent full and complete disclosure to the Second Plaintiff and the IMA Group Members of all material information in relation to the IMA Offers, the Second Plaintiff and the IMA Group Members would or may act contrary to their financial interests by renewing their existing IMA Insurance Policy by:
- (a) accepting an IMA Offer in circumstances where the matters alleged at paragraphs 66 and 67 had affected the Final Premium contained in the IMA Offer made to the Second Plaintiff and the IMA Group Member; or
 - (b) accepting an IMA Offer in circumstances where there was a risk that the matters in paragraphs 66 and 67 had affected the Final Premium contained in the IMA Offer made to the Second Plaintiff and the IMA Group Member; or
 - (c) accepting an IMA Offer other than on a fully informed basis; or
 - (d) refraining from requesting that IMA recalculate their Final Premium without the application of a Loyalty Uplift to the Initial Premium; or
 - (e) refraining from requesting that IMA apply a further discount to their Final Premium; or
 - (f) refraining from seeking an alternative insurance policy from another insurer at a lower price than the Final Premium in the IMA Offer.

PARTICULARS

IMA's state of mind is to be inferred from:

- (a) the knowledge of its directors, officers, servants and agents responsible for:
 - i. designing and/or implementing and/or approving the use of IMA's algorithmic modelling to calculate Initial Premiums; and

- ii. approving the terms and content of the Certificates of Insurance, including the Final Premium, issued to the Second Plaintiff and the IMA Group Members, including the way in which RACV Loyalty Discounts were promoted;
- (b) the fact that IMA is an expert in designing, marketing, pricing and issuing insurance products; and
- (c) the matters pleaded at paragraphs 63 to 72.

Further particulars may be provided after discovery and evidence and before trial.

73. The Second Plaintiff had and the IMA Group Members had, or were likely to have had, a reasonable expectation that IMA would disclose or adequately disclose to them all material information of which IMA was aware concerning the process by which the Initial Premiums and Final Premiums of the Second Plaintiff and the IMA Group Members were calculated, including that a Loyalty Uplift had been applied to the Initial Premium, or the risk that a Loyalty Uplift had been applied to the Initial Premium.
74. By reason of the matters pleaded at paragraphs 69 to 73, the Second Plaintiff and the IMA Group Members were not informed of all material information that was relevant to the decision to accept or reject an IMA Offer (the **IMA Material Non-Disclosure**).
75. Further and in the alternative, by reason of the IMA Material Non-Disclosure, IMA represented to the Second Plaintiff and the IMA Group Members that:
 - (a) the Initial Premium calculated for the Second Plaintiff and each IMA Group Member was based upon matters related only to the asset(s) being insured, the risk profile of the insured, and the cost to IMA of providing that IMA Insurance Policy; and
 - (b) the factors relevant to the RACV Loyalty Discount would be applied for the benefit of the Second Plaintiff and the IMA Group Member in the form of a saving on or reduction of their Final Premium (the **IMA Silence Representation**).
76. To the extent that the IMA Silence Representation was a representation with respect to future matters, IMA did not have reasonable grounds for making it and the Second

Plaintiff and the IMA Group Members rely on s 769C of the Corporations Act and s 12BB of the ASIC Act in relation to it.

77. IMA did not withdraw or qualify the IMA Silence Representation at any time during the period of operation of any of the IMA Insurance Policies, and as a result the IMA Silence Representation was a continuing representation throughout the IMA Relevant Period.

G. MISLEADING OR DECEPTIVE CONDUCT

IAL Misleading or Deceptive Conduct

78. By making each of the IAL SGI Final Premium Calculation Representation and/or the IAL NRMA Final Premium Calculation Representation and/or the IAL SGI Loyalty Discount Representations and/or the IAL NRMA Loyalty Discount Representations and/or the IAL Silence Representation and/or by engaging in the IAL Material Non-Disclosure, IAL engaged in conduct:
- (a) in relation to financial products and financial services within the meaning of s 1041H(1) and s 1041H(2)(b) of the Corporations Act;
 - (b) in trade or commerce in relation to financial services within the meaning of s 12DA(1) of the ASIC Act; and
 - (c) in trade or commerce that is liable to mislead the public as to the nature, the characteristics, the suitability for their purpose or the quantity of any financial services within the meaning of s 12DF(1) of the ASIC Act.
79. By reason of the matters pleaded at paragraphs 47 to 60, each of the IAL SGI Final Premium Calculation Representation and/or the IAL NRMA Final Premium Calculation Representation and the IAL SGI Loyalty Discount Representations and/or the IAL NRMA Loyalty Discount Representations was misleading or deceptive or likely to mislead or deceive.
80. Further or in the alternative, by reason of:
- (a) the matters pleaded at paragraphs 47 to 60, and

- (b) by making the IAL SGI Final Premium Calculation Representation and/or the IAL NRMA Final Premium Calculation Representation and the IAL SGI Loyalty Discount Representations and/or the IAL NRMA Loyalty Discount Representations without disclosing the matters giving rise to the IAL Material Non-Disclosure,

each of the IAL Silence Representation and the IAL Material Non-Disclosure was misleading or deceptive or likely to mislead or deceive.

81. Further or in the alternative, IAL did not have reasonable grounds for making the IAL SGI Final Premium Calculation Representation and/or the IAL NRMA Final Premium Calculation Representation and/or the IAL SGI Loyalty Discount Representations and/or the IAL NRMA Loyalty Discount Representations and/or the IAL Silence Representation and as a result each of the IAL SGI Final Premium Calculation Representation and/or the IAL NRMA Final Premium Calculation Representation and/or the IAL SGI Loyalty Discount Representations and/or the IAL NRMA Loyalty Discount Representations and/or the IAL Silence Representation was misleading or deceptive or likely to mislead or deceive.

82. The First Plaintiff and the Third Plaintiff separately as identified below:

- (a) relied on:
 - (i) the IAL SGI Final Premium Calculation Representation (in the case of the First Plaintiff) and the IAL NRMA Final Premium Calculation Representation (in the case of the Third Plaintiff);
 - (ii) the IAL SGI Express Loyalty Discount Representations (in the case of the First Plaintiff) and the IAL NRMA Express Loyalty Discount Representations (in the case of the Third Plaintiff);
 - (iii) the IAL SGI Implied Loyalty Discount Representations (in the case of the First Plaintiff) and the IAL NRMA Implied Loyalty Discount Representations (in the case of the Third Plaintiff);
 - (iv) the IAL Silence Representation,

in deciding whether to accept an IAL Offer in order to renew an IAL Insurance Policy; and/or

- (b) accepted an IAL Offer and renewed an IAL Insurance Policy because of the IAL Material Non-Disclosure.

PARTICULARS

In the case of the First Plaintiff, in deciding to renew her home and contents insurance with IAL, the First Plaintiff read and relied upon each IAL SGIO/SGIC Loyalty Discount contained in Certificates of Insurance which were issued to her by IAL, which she understood to be conferring on her an actual monetary benefit.

The First Plaintiff would not have accepted an IAL Offer containing an SGIO/SGIC Loyalty Discount at all, or, in the alternative, at the price that she did when she accepted each IAL Offer containing an SGIO/SGIC Loyalty Discount, had she been made aware of the matters giving rise to the IAL Misleading or Deceptive Conduct pleaded at paragraphs 78 to 81, above.

In the case of the Third Plaintiff, in deciding to renew his home and contents insurance with IAL, the Third Plaintiff read and relied upon each IAL NRMA Loyalty Discount contained in Certificates of Insurance which were issued to him by IAL, which he understood to be conferring on him an actual monetary benefit.

The Third Plaintiff would not have accepted an IAL Offer containing an NRMA Loyalty Discount at all, or, in the alternative, at the price that he did when he accepted each IAL Offer containing an NRMA Loyalty Discount, had he been made aware of the matters giving rise to the IAL Misleading or Deceptive Conduct pleaded at paragraphs 78 to 81 above.

Further particulars may be provided after discovery and evidence and before trial.

83. Some IAL SGI Group Members:

- (a) relied on the IAL SGI Final Premium Calculation Representation, the IAL SGI Loyalty Discount Representations and/or the IAL Silence Representation in deciding whether to accept an IAL Offer in order to renew an IAL Insurance Policy; and/or
- (b) accepted an IAL Offer and renewed an IAL Insurance Policy because of the IAL Material Non-Disclosure.

PARTICULARS

Particulars of Group Members' reliance on some or all of the IAL SGI Final Premium Calculation Representation, the IAL SGI Loyalty Discount Representations and/or the IAL Silence Representation will be provided following the determination of the First Plaintiff's claim and the common questions at an initial trial and in the event that it is necessary for a determination to be made of the individual claims of IAL SGI Group Members.

84. Some IAL NRMA Group Members:

- (a) relied on the IAL NRMA Final Premium Calculation Representation, the IAL NRMA Loyalty Discount Representations and/or the IAL Silence Representation in deciding whether to accept an IAL Offer in order to renew an IAL Insurance Policy; and/or
- (b) accepted an IAL Offer and renewed an IAL Insurance Policy because of the IAL Material Non-Disclosure.

PARTICULARS

Particulars of Group Members' reliance on some or all of the IAL NRMA Final Premium Calculation Representation, the IAL NRMA Loyalty Discount Representations and/or the IAL Silence Representation will be provided following the determination of the Third Plaintiff's claim and the common questions at an initial trial and in the event that it is necessary for a determination to be made of the individual claims of IAL NRMA Group Members.

85. By reason of the matters pleaded at 78 to 84, IAL contravened:

- (a) s 1041H(1) and s 1041H(2)(b) of the Corporations Act;
- (b) s 12DA(1) of the ASIC Act; and
- (c) s 12DF(1) of the ASIC Act.

86. Further or in the alternative, by making each of the IAL SGI Final Premium Calculation Representation, the IAL NRMA Final Premium Calculation Representation, the IAL SGI Loyalty Discount Representations, the IAL NRMA Loyalty Discount Representations, the IAL Silence Representation, IAL, in trade or

commerce and in connection with the supply or possible supply of financial services, or in connection with the promotion of the supply or use of financial services:

- (a) made false or misleading representations that services are of a particular standard, quality, value or grade;
- (b) made false or misleading representations with respect to the price of services.

87. By reason of the matters pleaded at paragraph 86, IAL contravened s 12DB(1)(a) and (g) of the ASIC Act.

88. Further or in the alternative, by making each of the statements comprising the IAL SGI Final Premium Calculation Representation and/or the IAL NRMA Final Premium Calculation Representation and/or the IAL SGI Loyalty Discount Representations and/or the IAL NRMA Loyalty Discount Representations and/or the IAL Silence Representation and/or by engaging in the IAL Material Non-Disclosure, IAL contravened s 1041E of the Corporations Act in that when it made those statements and/or engaged in that conduct, it made a statement and/or disseminated information:

- (a) that was materially misleading; and
- (b) that was likely to induce:
 - i. by reason of the IAL SGI Final Premium Calculation Representation and/or the IAL SGI Loyalty Discount Representations and/or the IAL Silence Representation and/or the IAL Material Non-Disclosure, the First Plaintiff and the IAL SGI Group Members to acquire an IAL Insurance Policy; and
 - ii. by reason of the IAL NRMA Final Premium Calculation Representation and/or the IAL NRMA Loyalty Discount Representations and/or the IAL Silence Representation and/or the IAL Material Non-Disclosure, the Third Plaintiff and the IAL NRMA Group Members to acquire an IAL Insurance Policy; and
- (c) that IAL, by its responsible officers, knew or ought reasonably to have known was materially misleading; or

- (d) further or in the alternative to 88(c), that IAL, by its responsible officers, did not care whether was true or not.

PARTICULARS

IAL's state of mind is to be inferred from:

- (a) the knowledge of its directors, officers, servants and agents responsible for:
 - i. designing and/or implementing and/or approving the use of IAL's algorithmic modelling to calculate Initial Premiums; and
 - ii. approving the terms and content of the Certificates of Insurance, including the Final Premium, issued to the First Plaintiff and the IAL SGI Group Members, including the way in which the SGIO/SGIC Loyalty Discounts were promoted, and to the Third Plaintiff and the IAL NRMA Group Members, including the way in which the NRMA Loyalty Discounts were promoted;
- (b) the fact that IAL is an expert in designing, marketing, pricing and issuing insurance products; and
- (c) the matters pleaded at paragraphs 47 to 52.

Further particulars may be provided after evidence and discovery and before trial.

89. Further or in the alternative, by making each of the IAL SGI Final Premium Calculation Representation and/or the IAL NRMA Final Premium Calculation Representation, and/or the IAL SGI Loyalty Discount Representations and/or the IAL NRMA Loyalty Discount Representations and/or the IAL Silence Representation and/or by engaging in the IAL Material Non-Disclosure, IAL contravened s 912A(1)(a) of the Corporations Act in that it failed to ensure that the financial services it provided to the IAL Plaintiffs and the IAL Group Members were provided efficiently, honestly and fairly.
90. By reason of the contraventions pleaded at 78 to 89, the IAL Plaintiffs and the IAL Group Members have suffered loss and damage.

PARTICULARS

The quantum of any Loyalty Uplift applied to the Initial Premium offered to the IAL Plaintiffs and the IAL Group Members is a matter peculiarly within the knowledge of the First Defendant.

The loss and damage suffered by the First Plaintiff and the Third Plaintiff include one or more of the following:

- (a) the difference between the price at which the First Plaintiff and the Third Plaintiff renewed an IAL Insurance Policy on each occasion during the SGI Relevant Period (for the First Plaintiff) and the NRMA Relevant Period (for the Third Plaintiff) on the basis of a Certificate of Insurance containing an SGIO/SGIC Loyalty Discount (in the case of the First Plaintiff) and an NRMA Loyalty Discount (in the case of the Third Plaintiff), and the price at which the First Plaintiff and the Third Plaintiff could have renewed or acquired the same or similar insurance policy with IAL had the conduct pleaded at paragraphs 78 to 89 above not occurred, such that a Loyalty Uplift would have not have been applied by IAL either in the manner pleaded above or at all; or
- (b) the difference between the price at which the First Plaintiff and the Third Plaintiff renewed an IAL Insurance Policy on each occasion during the SGI Relevant Period (for the First Plaintiff) and the NRMA Relevant Period (for the Third Plaintiff) on the basis of a Certificate of Insurance containing an SGIO/SGIC Loyalty Discount (in the case of the First Plaintiff) and an NRMA Loyalty Discount (in the case of the Third Plaintiff), and the price at which the First Plaintiff and the Third Plaintiff could have acquired a comparable policy with an insurer other than IAL at the time of renewal of the IAL Insurance Policy; or
- (c) the loss of opportunity on the part of the First Plaintiff and the Third Plaintiff to:
 - i. request that IAL recalculate their Final Premium without the application of a Loyalty Uplift to the Initial Premium; or
 - ii. request that IAL apply a further discount to their Final Premium; or
 - iii. seek an alternative insurance policy from another insurer at a lower price than the Final Premium in the IAL Offer;
- (d) the loss arising by reason of the fact that on each occasion that the First Plaintiff and the Third Plaintiff renewed an IAL Insurance Policy at any time following the first occasion on which a Loyalty Uplift was applied to their Initial Premium in a manner which caused the Final Premium to be higher than it would otherwise have been, each subsequent Initial Premium was higher than it would have been (the **IAL Legacy Loyalty Uplift Cost**).
- (e) Further particulars of loss and damage for the First Plaintiff and the Third Plaintiff may be provided after discovery and evidence and before trial.

The loss and damage suffered by IAL Group Members includes one or more of the categories of loss set out in subparagraphs (a) to (d) above.

91. The IAL Plaintiffs and the IAL Group Members are entitled to recover the amount of the loss and damage suffered by them from IAL as a result of the IAL's conduct as pleaded at 78 to 90 pursuant to:
- (a) s 1041I of the Corporations Act;
 - (b) s 1324(10) of the Corporations Act, in lieu of an injunction to restrain IAL from continuing to charge Final Premiums which are either affected by the imposition of a Loyalty Uplift or which contain an IAL Legacy Loyalty Uplift Cost;
 - (c) s 961M(2) of the Corporations Act; and
 - (d) s 12GF of the ASIC Act.

IMA Misleading and Deceptive Conduct

92. By making each of the IMA Final Premium Calculation Representation, and/or the IMA Loyalty Discount Representations, and/or the IMA Silence Representation and/or by engaging in the IMA Material Non-Disclosure, IMA engaged in conduct:
- (a) in relation to financial products and financial services within the meaning of s 1041H(1) and s 1041H(2)(b) of the Corporations Act;
 - (b) in trade or commerce in relation to financial services within the meaning of s 12DA(1) of the ASIC Act;
 - (c) in trade or commerce that is liable to mislead the public as to the nature, the characteristics, the suitability for their purpose or the quantity of any financial services within the meaning of s 12DF(1) of the ASIC Act.
93. By reason of the matters pleaded at paragraphs 63 to 75, each of the IMA Final Premium Calculation Representation and the IMA Loyalty Discount Representations was misleading or deceptive or likely to mislead or deceive.
94. Further or in the alternative, by reason of:
- (a) the matters pleaded at paragraphs 63 to 75, and

- (b) by making the IMA Final Premium Calculation Representation and the IMA Loyalty Discount Representations without disclosing the matters giving rise to the IMA Material Non-Disclosure,

each of the IMA Silence Representations and the IMA Material Non-Disclosure was misleading or deceptive or likely to mislead or deceive.

95. Further or in the alternative, IMA did not have reasonable grounds for making the IMA Final Premium Calculation Representation and/or the IMA Loyalty Discount Representations and/or the IMA Silence Representation, and as a result each of the IMA Final Premium Calculation Representation and/or the IMA Loyalty Discount Representations and/or the IMA Silence Representation was misleading or deceptive or likely to mislead or deceive.

96. The Second Plaintiff:

- (a) relied on:

- (i) the IMA Final Premium Calculation Representation;
- (ii) the IMA Express Loyalty Discount Representations;
- (iii) the IMA Implied Loyalty Discount Representations;
- (iv) the IMA Silence Representation,

in deciding whether to accept an IMA Offer in order to renew an IMA Insurance Policy; and/or

- (b) accepted an IMA Offer and renewed an IMA Insurance Policy because of the IMA Material Non-Disclosure.

PARTICULARS

In deciding to renew her home and contents insurance with IMA, the Second Plaintiff read and relied upon each RACV Loyalty Discount contained on Certificates of Insurance which were issued to her by IMA, which she understood to be conferring on her an actual monetary benefit.

The Second Plaintiff would not have accepted an IMA Offer containing an RACV Loyalty Discount at all, or, in the alternative, at the price that she did

when she accepted each IMA Offer containing an RACV Loyalty Discount, had she been made aware of the matters giving rise to the IMA Misleading or Deceptive Conduct pleaded at paragraphs 92 to 95, above.

Further particulars may be provided after discovery and evidence and before trial.

97. Some IMA Group Members:

- (a) relied on the IMA Final Premium Calculation Representation and/or the IMA Loyalty Discount Representations and/or the IMA Silence Representation in deciding whether to accept an IMA Offer in order to renew an IMA Insurance Policy; and/or
- (b) accepted an IMA Offer and renewed an IMA Insurance Policy because of the IMA Material Non-Disclosure.

PARTICULARS

Particulars of IMA Group Members' reliance on some or all of the IMA Final Premium Calculation Representation, the IMA Loyalty Discount Representations and/or the IMA Silence Representation will be provided following the determination of the Second Plaintiff's claim and the common questions at an initial trial and in the event that it is necessary for a determination to be made of the individual claims of IMA Group Members.

98. By reason of the matters pleaded at paragraphs 92 to 97, IMA contravened:

- (a) s 1041H(1) and s 1041H(2)(b) of the Corporations Act;
- (b) s 12DA(1) of the ASIC Act; and
- (c) s 12DF(1) of the ASIC Act.

99. Further or in the alternative, by making each of the IMA Final Premium Calculation Representation, and/or the IMA Loyalty Discount Representations and/or the IMA Silence Representation, IMA in trade or commerce and in connection with the supply or possible supply of financial services, or in connection with the promotion of the supply or use of financial services:

- (a) made false or misleading representations that services are of a particular standard, quality, value or grade;

- (b) made false or misleading representations with respect to the price of services.
100. By reason of the matters pleaded at paragraph 99, IMA contravened s 12DB(1)(a) and (g) of the ASIC Act.
101. Further or in the alternative, by making each of the statements comprising the IMA Final Premium Calculation Representation, and/or the IMA Loyalty Discount Representations and/or the IMA Silence Representation and/or by engaging in the IMA Material Non-Disclosure, IMA contravened s 1041E of the Corporations Act in that when it made those statements and/or engaged in that conduct, it made a statement and/or disseminated information:
- (a) that was materially misleading; and
 - (b) that was likely to induce the Second Plaintiff and the IMA Group Members to acquire an IMA Insurance Policy; and
 - (c) that IMA, by its responsible officers, knew or ought reasonably to have known was materially misleading; or
 - (d) further or in the alternative to paragraph 101(c), that IMA, by its responsible officers, did not care whether was true or not.

PARTICULARS

IMA's state of mind is to be inferred from:

- (a) the knowledge of its directors, officers, servants and agents responsible for:
 - i. designing and/or implementing and/or approving the use of IMA's algorithmic modelling to calculate Initial Premiums; and
 - ii. approving the terms and content of the Certificates of Insurance, including the Final Premium, issued to the Second Plaintiff and the IMA Group Members, including the way in which RACV Loyalty Discounts were promoted;
- (b) the fact that IMA is an expert in designing, marketing, pricing and issuing insurance products; and
- (c) the matters pleaded at paragraphs 63 to 68.

Further particulars may be provided after evidence and discovery and before trial.

102. Further or in the alternative, by making each of the IMA Final Premium Calculation Representation, the IMA Loyalty Discount Representations and/or the IMA Silence Representation and/or by engaging in the IMA Material Non-Disclosure, IMA contravened s 912A(1)(a) of the Corporations Act in that it failed to ensure that the financial services it provided to the Second Plaintiff and the IMA Group Members were provided efficiently, honestly and fairly.
103. By reason of the contraventions pleaded at paragraphs 92 to 102, the Second Plaintiff and IMA Group Members have suffered loss and damage.

PARTICULARS

The quantum of any Loyalty Uplift applied to the Initial Premium offered to the Second Plaintiff and IMA Group Members is a matter peculiarly within the knowledge of the Second Defendant.

The loss and damage suffered by the Second Plaintiff include one or more of the following:

- (a) the difference between the price at which the Second Plaintiff renewed an IMA Insurance Policy on each occasion during the IMA Relevant Period on the basis of a Certificate of Insurance containing an RACV Loyalty Discount, and the price at which the Second Plaintiff could have renewed or acquired the same or similar insurance policy with IMA had the conduct pleaded at paragraphs 92 to 102 above not occurred, such that a Loyalty Uplift would have not have been applied by IMA either in the manner pleaded above or at all; or
- (b) the difference between the price at which the Second Plaintiff renewed an IMA Insurance Policy on each occasion during the IMA Relevant Period on the basis of a Certificate of Insurance containing an RACV Loyalty Discount, and the price at which the Second Plaintiff could have acquired a comparable policy with an insurer other than IMA at the time of renewal of the IMA Insurance Policy;
- (c) the loss of opportunity on the part of the Second Plaintiff to:
 - i. request that IMA recalculate her Final Premium without the application of a Loyalty Uplift to the Initial Premium; or
 - ii. request that IMA apply a further discount to her Final Premium; or
 - iii. seek an alternative insurance policy from another insurer at a lower price than the Final Premium in the IMA Offer;
- (d) the loss arising by reason of the fact that on each occasion that the Second Plaintiff renewed an IMA Insurance Policy at any time following the first occasion on which a Loyalty Uplift was applied to her Initial Premium in a manner which caused the Final Premium to

be higher than it would otherwise have been, each subsequent Initial Premium was higher than it would have been (the **IMA Legacy Loyalty Uplift Cost**).

- (e) Further particulars of loss and damage for the Second Plaintiff may be provided after discovery and evidence and before trial.

The loss and damage suffered by IMA Group Members includes one or more of the categories of loss set out in subparagraphs (a) to (d) above.

104. The Second Plaintiff and IMA Group Members are entitled to recover the amount of the loss and damage suffered by them from IMA as a result of the IMA's conduct as pleaded at paragraphs 92 to 102 pursuant to:

- (a) s 1041I of the Corporations Act;
- (b) s 1324(10) of the Corporations Act, in lieu of an injunction to restrain IMA from continuing to charge Final Premiums which are either affected by the imposition of a Loyalty Uplift or which contain an IMA Legacy Loyalty Uplift Cost;
- (c) s 961M(2) of the Corporations Act; and
- (d) s 12GF of the ASIC Act.

H. UNCONSCIONABLE CONDUCT

IAL Unconscionability

105. The IAL Plaintiffs and the IAL Group Members acquired the IAL Insurance Policies in one or more of the following circumstances:

- (a) where the IAL Insurance Policy being acquired was home insurance, it was being acquired in order to:
 - i. insure their most significant asset or a significant asset; and/or
 - ii. insure their principal place of residence; and/or
 - iii. protect a significant investment made in a house; and/or

- iv. ensure that in the event of damage or destruction of the house where that house was their principal place of residence, alternative accommodation may be obtained;
- (b) where the IAL Insurance Policy being acquired was, or included, contents insurance, it was being acquired to:
- i. insure valuable personal assets; and/or
 - ii. insure personal effects including items required for daily living; and/or
 - iii. protect investments made in personal assets; and/or
 - iv. ensure that in the event of damage or destruction of personal assets or personal effects replacement assets and replacement personal effects may be obtained;

PARTICULARS

In relation to the First Plaintiff, the IAL Insurance Policy acquired by the First Plaintiff was contents insurance for the purposes set out at paragraph 105(b)(i)-(ii) and (iv).

In relation to the Third Plaintiff, the IAL Insurance Policy acquired by the Third Plaintiff was home and contents insurance for the purposes set out at paragraph 105(a)(i)-(ii) and (iv) and 105(b)(i)-(ii) and (iv).

- (c) the IAL Plaintiffs and the IAL Group Members were vulnerable, alternatively those Group Members who resided in the house the subject of an IAL Insurance Policy were vulnerable;

PARTICULARS

The vulnerability of the IAL Plaintiffs and the IAL Group Members arises by reason of those persons being in a weaker bargaining position vis-à-vis IAL; the insurmountable information asymmetry between those persons and IAL insofar as the way in which Initial Premiums for IAL Insurance Policies were calculated, including the fact that a Loyalty Uplift may have been applied to their Initial Premium prior to the application of the applicable SGIO/SGIC Loyalty Discount or NRMA Loyalty Discount; and the nature and importance of the insurance product as pleaded at paragraphs 105(a) and 105(b) and by reason of the matters pleaded at paragraphs 47 to 62.

Further particulars may be provided after discovery and evidence and before trial.

- (d) the IAL Plaintiffs and the IAL Group Members were not informed, either adequately or at all, of the matters pleaded at paragraphs 48 to 52 and 54 above;
- (e) there was a risk that the IAL Plaintiffs and the IAL Group Members may have their Initial Premium increased by reason of the Loyalty Uplift, being an undisclosed matter which was not connected with either their risk profile as an insured or the cost to IAL of offering the insurance product to the First Plaintiff or the IAL SGI Group Member and the Third Plaintiff or the IAL NRMA Group Member;
- (f) the same matters (namely loyalty and years of membership or number of policies) said to entitle the First Plaintiff and the IAL SGI Group Members to an SGIO/SGIC Loyalty Discount and the Third Plaintiff and the IAL NRMA Group Members to an NRMA Loyalty Discount were secretly used by IAL to inflate the Initial Premiums of some IAL SGI Group Members and IAL NRMA Group Members (and possibly the IAL Plaintiffs);
- (g) IAL made the IAL Offers to the IAL Plaintiffs and the IAL Group Members in circumstances where IAL knew that an SGIO/SGIC Loyalty Discount (in the case of the First Plaintiff and the IAL SGI Group Members) and an NRMA Loyalty Discount (in the case of the Third Plaintiff and the IAL NRMA Group Members) would act as an incentive which would induce and encourage existing policy holders to renew an IAL Insurance policy by accepting an IAL Offer;

PARTICULARS

IAL's state of mind is to be inferred from:

- (a) the knowledge of its directors, officers, servants and agents responsible for:
 - i. designing and/or implementing and/or approving the use of IAL's algorithmic modelling to calculate Initial Premiums; and
 - ii. approving the terms and content of the Certificates of Insurance, including the Final Premium, issued to the First Plaintiff and the

IAL SGI Group Members, including the way in which the SGIO/SGIC Loyalty Discounts were promoted, and the Third Plaintiff and the IAL NRMA Group Members, including the way in which the NRMA Loyalty Discounts were promoted;

- (b) the fact that IAL is an expert in designing, marketing, pricing and issuing insurance products; and
- (c) the prominence given to any SGIO/SGIC Loyalty Discount and NRMA Loyalty Discount that was to apply to a particular consumer in that consumer's Certificate of Insurance.

Further particulars may be provided after discovery and evidence and before trial.

- (h) the IAL Plaintiffs and the IAL Group Members were encouraged to accept an IAL Offer and to renew an IAL Insurance Policy even in circumstances where it may be against their best interests for them to do so;

PARTICULARS

The IAL Plaintiffs and the IAL Group Members were encouraged to accept an IAL Offer and to renew an IAL Insurance Policy in circumstances where IAL provided the First Plaintiff and IAL SGI Group Members with a Certificate of Insurance containing a prominently displayed SGIO/SGIC Loyalty Discount, and the Third Plaintiff and the IAL NRMA Group Members with a Certificate of Insurance containing a prominently displayed NRMA Loyalty Discount, which only applied, and would only continue to apply, by reason of the First Plaintiff's and the IAL SGI Group Members' and the Third Plaintiff's and the IAL NRMA Group Members' ongoing consumer relationship with IAL.

By reason of the matters pleaded at paragraphs 47 to 62 and 78 to 91, it may have been against the First Plaintiff's and the IAL SGI Group Members' and the Third Plaintiff's and the IAL NRMA Group Members' best interests to have accepted an IAL Offer to renew an IAL Insurance Policy.

- (i) where it was not reasonably necessary for IAL to engage in the conduct pleaded in subparagraphs (d) to (h) above to protect the legitimate interests of IAL.

106. At all relevant times, IAL, by its responsible officers, was aware of the matters pleaded at paragraph 105 above.

PARTICULARS

In relation to paragraphs 105(a), (b), (d)-(f) and (h), IAL's state of mind is to be inferred from the matters set out in the particulars to paragraph 105(g) above.

In relation to paragraph 105(c), IAL's statement of mind is to be inferred from the fact that IAL is an expert in designing, marketing, pricing and issuing insurance products, and the nature of the policies, including the subject matter being insured.

In relation to paragraph 105(g), the IAL Plaintiffs and the IAL Group Members repeat the particulars given at that paragraph, above.

Further particulars may be provided after discovery and evidence and before trial.

107. By reason of the matters pleaded at paragraphs 105 to 106, IAL engaged in conduct in trade or commerce that was, in all the circumstances, unconscionable in contravention of s 12CB(1) of the ASIC Act within the meaning of s 12CC of the ASIC Act, in that:

- (a) IAL was in a stronger bargaining position than the IAL Plaintiffs and the IAL Group Members, both generally and specifically in relation to the IAL Offers, being offers of insurance policies made by an insurer to insureds who needed to continuously insure their investment in assets, including in some cases assets which were their principal place of residence;
- (b) IAL had not complied with the Code insofar as IAL had not been open, fair and honest in dealings with the IAL Plaintiffs and the IAL Group Members;
- (c) IAL unreasonably failed to disclose to the IAL Plaintiffs and the IAL Group Members the way in which Initial Premiums for the IAL Insurance Policies had been calculated, including the fact that a Loyalty Uplift may have been applied to their Initial Premium prior to the application of the applicable SGIO/SGIC Loyalty Discount (in the case of the First Plaintiff and the IAL SGI Group Members) or NRMA Loyalty Discount (in the case of the Third Plaintiff and the IAL NRMA Group Members);
- (d) IAL took advantage of the fact that its use of IAL Demand Modelling for the IAL Insurance Policies secretly conferred on IAL a benefit which was to the detriment of the consumer, in so far as the application of a Loyalty Uplift to the Initial Premium of some IAL SGI Group Members prior to the application

of the SGIO/SGIC Loyalty Discount and to the Initial Premium of some IAL NRMA Group Members prior to the application of the NRMA Loyalty Discount had the effect that the IAL SGI Group Member's Final Premium and the IAL NRMA Group Member's Final Premium was higher than it would otherwise have been;

- (e) the IAL Plaintiffs and the IAL Group Members were not able to understand, sufficiently or at all, the way in which their eligibility for a Loyalty Discount may have affected their Initial Premium, in order to protect their best interests and make an informed decision concerning whether to accept an IAL Offer;
- (f) IAL's conduct of offering the SGIO/SGIC Loyalty Discount and the NRMA Loyalty Discount encouraged consumers to purchase and renew IAL Insurance Policies in circumstances where to do so may not have been in the their best interests;
- (g) IAL used unfair tactics when marketing the IAL Insurance Policies to the IAL Plaintiffs and the IAL Group Members;

PARTICULARS

The IAL Plaintiffs and the IAL Group Members refer to the matters pleaded at paragraph 105(d)-(h).

- (h) IAL did not and has not acted in good faith;
 - (i) the conduct engaged in by IAL as pleaded above at paragraphs 48 to 52 and 54 was not necessary for the protection of the legitimate interests of IAL.
108. Further or alternatively, by reason of the matters referred to at paragraphs 105 to 107 above, IAL engaged in a system of conduct or pattern of behaviour (within the meaning of s 12CB(4) of the ASIC Act) which was unconscionable, in all the circumstances, in contravention of s 12CB(1) of the ASIC Act, in relation to:
- (a) the First Plaintiff and the IAL SGI Group Members;
 - (b) the Third Plaintiff and the IAL NRMA Group Members;

- (c) further or alternatively, those IAL Group Members who resided in a house which was the subject of an IAL Insurance Policy or owned contents that were subject of an IAL Insurance Policy.
109. Further or alternatively, by reason of the matters referred to at paragraphs 105 to 107 above, IAL engaged in conduct, in or in relation to the provision of a financial service, which was, in all the circumstances, unconscionable, in contravention of s 991A(1) of the Corporations Act, in relation to the IAL Plaintiffs and the IAL Group Members.
110. The IAL Plaintiffs and the IAL Group Members accepted the IAL Offers and renewed the IAL Insurance Policies because of the matters referred to at paragraphs 105(a)-(d), (g)-(h) and 107(a)-(h) above.

PARTICULARS

In relation to the First Plaintiff, the relevant matters are set out at paragraph 105(b)-(d), (g)-(h) and 107(a)-(h).

In relation to the Third Plaintiff, the relevant matters are set out at paragraph 105(a)-(d), (g)-(h) and 107(a)-(h).

Further particulars may be provided after discovery and evidence and before trial.

111. By reason of the matters pleaded at paragraphs 105 to 110, the IAL Plaintiffs and the IAL Group Members have suffered loss and damage:
- (a) by the conduct of IAL in contravention of s 12CB(1) of the ASIC Act and claim damages pursuant to s 12GF and/or s 12GM(1) of the ASIC Act; and/or
 - (b) further or alternatively, by reason of IAL's contravention of s 991A(1) of the Corporations Act and claim recovery of loss or damage pursuant to s 991A(2) of the Corporations Act.

PARTICULARS

The IAL Plaintiffs and the IAL Group Members refer to and repeat the particulars to paragraph 90 above.

IMA unconscionability

112. The Second Plaintiff and the IMA Group Members acquired the IMA Insurance Policies in one or more of the following circumstances:

- (a) where the IMA Insurance Policy being acquired was home insurance, it was being acquired in order to:
 - i. insure their most significant asset or a significant asset; and/or
 - ii. insure their principal place of residence; and/or
 - iii. protect a significant investment made in a house; and/or
 - iv. ensure that in the event of damage or destruction of the house where that house was their principal place of residence, alternative accommodation may be obtained;

PARTICULARS

In relation to the Second Plaintiff, the IMA Insurance Policy acquired by the Second Plaintiff was for the purposes set out at paragraph 112(a)(i)-(iv).

- (b) where the IMA Insurance Policy being acquired was, or included, contents insurance, it was being acquired to:
 - i. insure valuable personal assets; and/or
 - ii. insure personal effects including items required for daily living; and/or
 - iii. protect investments made in personal assets; and/or
 - iv. ensure that in the event of damage or destruction of personal assets or personal effects replacement assets and replacement personal effects may be obtained;
- (c) the Second Plaintiff and the IMA Group Members were vulnerable, alternatively those IMA Group Members who resided in the house the subject of an IMA Insurance Policy were vulnerable;

PARTICULARS

The vulnerability of the Second Plaintiff and the IMA Group Members arises by reason of those persons being in a weaker bargaining position vis-à-vis IMA; the insurmountable information asymmetry between those persons and IMA insofar as the way in which Initial Premiums for IMA Insurance Policies were calculated, including the fact that a Loyalty Uplift may have been applied to their Initial Premium prior to the application of the applicable RACV Loyalty Discount; and as well as the nature and importance of the insurance product as pleaded at paragraphs 112(a), 112(b) (in relation to the Second Plaintiff) and by reason of the matters pleaded at paragraphs 63 to 77.

Further particulars may be provided after discovery and evidence and before trial.

- (d) the Second Plaintiff and the IMA Group Members were not informed, either adequately or at all, of the matters pleaded at paragraphs 64 to 68 and 70 above;
- (e) there was a risk that the Second Plaintiff and the IMA Group Members may have their Initial Premium increased by reason of the Loyalty Uplift, being an undisclosed matter which was not connected with either their risk profile as an insured or the cost to IMA of offering the insurance product to the Second Plaintiff or the IMA Group Member;
- (f) the same matters (namely loyalty and years of membership or number of policies) said to entitle the Second Plaintiff and the IMA Group Members to an RACV Loyalty Discount were secretly used by IMA to inflate the Initial Premiums of some IMA Group Members (and possibly the Second Plaintiff);
- (g) IMA made the IMA Offers to the Second Plaintiff and the IMA Group Members in circumstances where IMA knew that an RACV Loyalty Discount would act as an incentive which would induce and encourage existing policy holders to renew an IMA Insurance policy by accepting an IMA Offer;

PARTICULARS

IMA's state of mind is to be inferred from:

- (a) the knowledge of its directors, officers, servants and agents responsible for:

- i. designing and/or implementing and/or approving the use of IMA's algorithmic modelling to calculate Initial Premiums; and
 - ii. approving the terms and content of the Certificates of Insurance, including the Final Premium, issued to the Second Plaintiff and the IMA Group Members, including the way in which the RACV Loyalty Discounts were promoted;
- (b) the fact that IMA is an expert in designing, marketing, pricing and issuing insurance products; and
 - (c) the prominence given to any RACV Loyalty Discount that was to apply to a particular consumer in that consumer's Certificate of Insurance.

Further particulars may be provided after discovery and evidence and before trial.

- (h) the Second Plaintiff and the IMA Group Members were encouraged to accept an IMA Offer and renew an IMA Insurance Policy even in circumstances where it may be against their best interests for them to do so;

PARTICULARS

The Second Plaintiff and IMA Group Members were encouraged to accept an IMA Offer and to renew an IMA Insurance Policy in circumstances where IMA provided the Second Plaintiff and the IMA Group Members with a Certificate of Insurance containing a prominently displayed RACV Loyalty Discount which only applied, and would only continue to apply, by reason of the Second Plaintiff's and the IMA Group Members' ongoing consumer relationship with IMA.

By reason of the matters pleaded at paragraphs 63 to 77 and 92 to 104, it may have been against the Second Plaintiff's and the IMA Group Members' best interests to have accepted an IMA Offer to renew an IMA Insurance Policy.

- (i) where it was not reasonably necessary for IMA to engage in the conduct pleaded in subparagraphs (d) to (h) above to protect the legitimate interests of IMA.

- 113. At all relevant times, IMA, by its responsible officers, was aware of the matters pleaded at paragraph 112 above.

PARTICULARS

In relation to paragraphs 112(a), (b), (d)-(f) and (h), IMA's state of mind is to be inferred from the matters set out in the particulars to paragraph 112(g) above.

In relation to paragraph 112(c), IMA's statement of mind is to be inferred from the fact that IMA is an expert in designing, marketing and issuing insurance products, and the nature of the policies, including the subject matter being insured.

In relation to paragraph 112(g), the Second Plaintiff and the IMA Group Members repeat the particulars given at that paragraph, above.

Further particulars may be provided after discovery and evidence and before trial.

114. By reason of the matters pleaded at paragraphs 112 to 113, IMA engaged in conduct in trade or commerce that was, in all the circumstances, unconscionable in contravention of s 12CB(1) of the ASIC Act within the meaning of s 12CC of the ASIC Act, in that:

- (a) IMA was in a stronger bargaining position than the Second Plaintiff and the IMA Group Members, both generally and specifically in relation to the IMA Offers, being offers of insurance policies made by an insurer to insureds who needed to continuously insure their investment in assets, including in some cases assets which were their principal place of residence;
- (b) IMA had not complied with the Code insofar as IMA had not been open, fair and honest in dealings with the Second Plaintiff and the IMA Group Members;
- (c) IMA unreasonably failed to disclose to the Second Plaintiff and the IMA Group Members the way in which Initial Premiums for the IMA Insurance Policies had been calculated, including the fact that a Loyalty Uplift may have been applied to their Initial Premium prior to the application of the applicable RACV Loyalty Discount;
- (d) IMA took advantage of the fact that its use of IMA Demand Modelling for the IMA Insurance Policies secretly conferred on it a benefit which was to the detriment of the consumer, in so far as the application of a Loyalty Uplift to the Initial Premium of some IMA Group Members prior to the application

of the RACV Loyalty Discount had the effect that the IMA Group Member's Final Premium was higher than it would otherwise have been;

- (e) the Second Plaintiff and the IMA Group Members were not able to understand, sufficiently or at all, the way in which their eligibility for a Loyalty Discount may have affected their Initial Premium, in order to protect their best interests and make an informed decision concerning whether to accept an IMA Offer;
- (f) IMA's conduct of offering RACV Loyalty Discount encouraged consumers to purchase and renew IMA Insurance Policies in circumstances where to do so may not have been in the IMA Group Member's best interests;
- (g) IMA used unfair tactics when marketing the IMA Insurance Policies to the Second Plaintiff and the IMA Group Members;

PARTICULARS

The Second Plaintiff and the IMA Group Members refer to the matters pleaded at paragraph 112(d)-(h).

- (h) IMA did not and has not acted in good faith;
 - (i) the conduct engaged in by IMA as pleaded above at paragraphs 64 to 68 and 70 was not necessary for the protection of the legitimate interests of IMA.
115. Further or alternatively, by reason of the matters referred to at paragraphs 112 to 114 above, IMA engaged in a system of conduct or pattern of behaviour (within the meaning of s 12CB(4) of the ASIC Act) which was unconscionable, in all the circumstances, in contravention of s 12CB(1) of the ASIC Act, in relation to:
- (a) the Second Plaintiff and the IMA Group Members;
 - (b) further or alternatively, those IMA Group Members who resided in a house which was the subject of an IMA Insurance Policy or owned contents that were subject of an IMA Insurance Policy.
116. Further or alternatively, by reason of the matters referred to at paragraphs 112 to 115 above, IMA engaged in conduct, in or in relation to the provision of a financial service,

which was, in all the circumstances, unconscionable, in contravention of section 991A(1) of the Corporations Act, in relation to the Second Plaintiff and IMA Group Members

117. The Second Plaintiff and the IMA Group Members accepted the IMA Offers and renewed the IMA Insurance Policies because of the matters referred to at paragraphs 112(a)-(d), (g)-(h) and 114(a)-(h), above.

PARTICULARS

In relation to the Second Plaintiff, the relevant matters are set out at paragraph 112(a), (c)-(d), (g)-(h) and 99(a)-(h).

Further particulars may be provided after discovery and evidence and before trial.

118. By reason of the matters pleaded at paragraphs 112 to 117, the Second Plaintiff and IMA Group Members have suffered loss and damage:

- (a) by the conduct of IMA in contravention of s 12CB(1) of the ASIC Act and claim damages pursuant to s 12GF and/or s 12GM(1) of the ASIC Act; and
- (b) further or alternatively, by reason of IMA's contravention of s 991A(1) of the Corporations Act and claim recovery of loss or damage pursuant to s 991A(2) of the Corporations Act.

PARTICULARS

The Second Plaintiff and IMA Group Members refer to and repeat the particulars to paragraph 112 above.

I. RELIEF CLAIMED

119. The Plaintiffs claim on their own behalf and on behalf of the Group Members:
- (a) A declaration that IAL and IMA contravened ss12DA, 12DB and 12DF of the ASIC Act, and ss 1041E and 1041H of the Corporations Act.
 - (b) A declaration that IAL and IMA contravened s 12CB of the ASIC Act.
 - (c) A declaration that IAL and IMA contravened s 912A of the Corporations Act.

- (d) Orders for compensation for loss or damage pursuant to ss 12GF and 12GM of the ASIC Act, or ss 991A(2) and 1041I of the Corporations Act.
- (e) An injunction pursuant to s 1324(2) of the Corporations Act:
 - i. requiring IAL and/or IMA to refund the Final Premiums paid by the Plaintiffs and Group Members which were either affected by the imposition of a Loyalty Uplift or which contained an IAL Legacy Loyalty Uplift Cost or an IMA Legacy Loyalty Uplift Cost; and
 - ii. restraining IAL and/or IMA from continuing to charge Final Premiums to Group Members which are either affected by the imposition of a Loyalty Uplift or which contain an IAL Legacy Loyalty Uplift Cost or an IMA Legacy Uplift Cost.
- (f) Further or in the alternative to subparagraph (c), in addition or substitution for the grant of injunctions pursuant to s 1324(2), an order pursuant to s 1324(10) of the Corporations Act for damages.
- (g) Such further or other orders as the Court thinks fit pursuant to s 12GM(1) and/or (7) of the ASIC Act.
- (h) An award of damages in aggregate amount pursuant to s 33Z(1)(e) or (f) of the *Supreme Court Act 1986* (Vic).
- (i) Interest pursuant to statute.
- (j) Costs.
- (k) Such further order as the Court determines appropriate.

J. COMMON QUESTIONS

The IAL Plaintiffs and the IAL Group Members

The questions of law or fact common to the claims of the IAL Plaintiffs and the IAL Group Members are as follows:

1. Was the Code binding on IAL during the SGI Relevant Period and the NRMA Relevant Period?
2. If yes to question 1 above, was IAL required to:
 - (a) act in a manner towards consumers which was efficient, honest and fair with respect to the offering of IAL Insurance Policies;
 - (b) act in an open, fair and honest manner towards consumers who were considering purchasing or renewing IAL Insurance Policies; and
 - (c) provide consumers with all relevant information as to how each consumer's premium for an IAL Insurance Policy had been calculated?
3. Did IAL make the IAL Offers to:
 - (a) the First Plaintiff and the IAL SGI Group Members;
 - (b) the Third Plaintiff and the IAL NRMA Group Members?
4. Did the IAL Insurance Policies constitute a contract of insurance between:
 - (a) IAL and the First Plaintiff and IAL and an IAL SGI Group Member;
 - (b) IAL and the Third Plaintiff and IAL and an IAL NRMA Group Member, comprising the Certificate of Insurance and a PDS?
5. During the SGI Relevant Period and the NRMA Relevant Period, did IAL promote to consumers and offer to:
 - (a) the First Plaintiff and the IAL SGI Group Members the SGIO/SGIC Loyalty Discount;

- (b) the Third Plaintiff and the IAL NRMA Group Members the NRMA Loyalty Discount?
- 6. Were the IAL Insurance Policies financial products within the meaning of ss 763A and 763C of the Corporations Act and s 12BAA of the ASIC Act?
- 7. By issuing IAL Insurance Policies during the SGI Relevant Period and the NRMA Relevant Period, did IAL provide a financial service in trade or commerce to:
 - (a) the First Plaintiff and the IAL SGI Group Members;
 - (b) the Third Plaintiff and the IAL NRMA Group Members,within the meaning of s 12BAB of the ASIC Act?
- 8. By issuing IAL Insurance Policies during the SGI Relevant Period and the NRMA Relevant Period, did IAL provide a financial service to:
 - (a) the First Plaintiff and the IAL SGI Group Members;
 - (b) the Third Plaintiff and the IAL NRMA Group Members,within the meaning of s 766A of the Corporations Act?
- 9. By issuing IAL Insurance Policies during the SGI Relevant Period and the NRMA Relevant Period, did IAL deal in a financial product in relation to:
 - (a) the First Plaintiff and the IAL SGI Group Members;
 - (b) the Third Plaintiff and the IAL NRMA Group Members,within the meaning of s 766C of the Corporations Act?
- 10. Did IAL make:
 - (a) the IAL SGI Final Premium Calculation Representation;
 - (b) the IAL NRMA Final Premium Calculation Representation?

11. Did Certificates of Insurance issued by IAL:
 - (a) to the First Plaintiff and the IAL SGI Group Members contain the statements pleaded at paragraph 27;
 - (b) to the Third Plaintiff and the IAL NRMA Group Members contain the statements pleaded at paragraph 34?
12. If yes to the question 11, above, did IAL make:
 - (a) in relation to the First Plaintiff and the IAL SGI Group Members:
 - (i) the IAL SGI Express Loyalty Discount Representations; and/or
 - (ii) the IAL SGI Implied Loyalty Discount Representations (together and separately the IAL SGI Loyalty Discount Representations);
 - (b) in relation to the Third Plaintiff and the IAL NRMA Group Members:
 - (i) the IAL NRMA Express Loyalty Discount Representations; and/or
 - (ii) the IAL NRMA Implied Loyalty Discount Representations (together and separately the IAL NRMA Loyalty Discount Representations)?
13. If IAL made any of the representations set out at questions 10 and 12 above, were those representations as to future matters within the meaning of s 769C of the Corporations Act and s 12BB of the ASIC Act?
14. Did IAL use the IAL Demand Modelling to calculate the Initial Premiums for consumers, including:
 - (a) the First Plaintiff and the IAL SGI Group Members;
 - (b) the Third Plaintiff and the IAL NRMA Group Members?
15. Did the IAL Demand Modelling have the effect that a Loyalty Uplift was applied to the Initial Premium of at least some:
 - (a) IAL SGI Group Members (including possibly the First Plaintiff);

- (b) IAL NRMA Group Members (including possibly the Third Plaintiff)?
16. If yes to questions 14 and 15 above, did those matters have the effect pleaded at paragraph 51 in relation to:
- (a) at least some IAL SGI Group Members (and possibly the First Plaintiff);
 - (b) at least some IAL NRMA Group Members (and possibly the Third Plaintiff)?
17. If yes to question 16 above, were the IAL Offers made by IAL in circumstances where IAL knew or ought reasonably to have known that:
- (a) a Loyalty Uplift had been applied to the Initial Premiums of:
 - (i) at least some IAL SGI Group Members (possibly including the First Plaintiff);
 - (ii) at least some IAL NRMA Group Members (possibly including the Third Plaintiff); and
 - (b) the application of a Loyalty Uplift to the Initial Premiums of:
 - (i) at least some IAL SGI Group Members (possibly including the First Plaintiff);
 - (ii) at least some IAL NRMA Group Members (possibly including the Third Plaintiff),
- had the effect pleaded in paragraph 51?
18. Did IAL make the IAL Silence Representation?
19. Did IAL engage in the IAL Material Non-Disclosure?
20. If yes to question 18, above, was the IAL Silence Representation with respect to future matters within the meaning of s 769C of the Corporations Act and s 12BB of the ASIC Act?

21. If IAL made:

- (a) with respect to the First Plaintiff and the IAL SGI Group Members, the IAL SGI Final Premium Calculation Representation, and/or the IAL SGI Loyalty Discount Representations and/or the IAL Silence Representation and/or engaged in the IAL Material Non-Disclosure,
- (b) with respect to the Third Plaintiff and the IAL NRMA Group Members, the IAL NRMA Final Premium Calculation Representation, and/or the IAL NRMA Loyalty Discount Representations and/or the IAL Silence Representation and/or engaged in the IAL Material Non-Disclosure,

did IAL engage in conduct:

- (a) in relation to financial products and financial services within the meaning of s 1041H(1) and 1041H(2)(b) of the Corporations Act;
- (b) in trade or commerce in relation to financial services within the meaning of s 12DA(1) of the ASIC Act;
- (c) in trade or commerce that is liable to mislead the public as to the nature, the characteristics, the suitability for their purpose or the quantify of any financial service within the meaning of s 12DF(1) of the ASIC Act?

22. Were each of:

- (a) the IAL SGI Final Premium Calculation Representation and the IAL SGI Loyalty Discount Representations;
- (b) the IAL NRMA Final Premium Calculation Representation and the IAL NRMA Loyalty Discount Representations,

misleading or deceptive or likely to mislead or deceive?

23. Were each of the IAL Silence Representation and the IAL Material Non-Disclosure misleading or deceptive or likely to mislead or deceive?

24. Did IAL have reasonable grounds for making:
- (a) the IAL SGI Final Premium Calculation Representation and the IAL SGI Loyalty Discount Representations;
 - (b) the IAL NRMA Final Premium Calculation Representation and the IAL NRMA Loyalty Discount Representations; and
 - (c) the IAL Silence Representation?
25. Did:
- (a) the First Plaintiff and the IAL SGI Group Members:
 - (i) rely on the IAL SGI Final Premium Calculation Representations and/or the IAL SGI Loyalty Discount Representations and/or the IAL Silence Representation in deciding whether to accept an IAL Offer in order to renew an IAL Insurance Policy; and/or
 - (ii) accept an IAL Offer and renew an IAL Insurance Policy because of the IAL Material Non-Disclosure;
 - (b) the Third Plaintiff and the IAL NRMA Group Members:
 - (i) rely on the IAL NRMA Final Premium Calculation Representation and/or the IAL NRMA Loyalty Discount Representations and/or the IAL Silence Representation in deciding whether to accept an IAL Offer in order to renew an IAL Insurance Policy; and/or
 - (ii) accept an IAL Offer and renew an IAL Insurance Policy because of the IAL Material Non-Disclosure?
26. Did IAL contravene s 1041H(1) and s 1041H(2)(b) of the Corporations Act, s 12DA(1) and s 12DF(1) of the ASIC Act?
27. If IAL made each of:
- (a) the IAL SGI Final Premium Calculation Representation, and/or the IAL SGI Loyalty Discount Representations and/or the IAL Silence Representation;

- (b) the IAL NRMA Final Premium Calculation Representation, and/or the IAL NRMA Loyalty Discount Representations,

did IAL, in trade or commerce, and in connection with the supply or possible supply of financial services, or in connection with the promotion of the supply or use of financial services:

- (a) make false or misleading representations that services are of a particular standard, quality, value or grade;
- (b) make false or misleading representations with respect to the price of services?

28. If yes to question 27, above, did IAL contravene s 12DB(1)(a) and (g) of the ASIC Act?

29. If IAL:

- (a) made the IAL SGI Final Premium Calculation Representation, and/or the IAL SGI Loyalty Discount Representations;
- (b) made the IAL NRMA Final Premium Calculation Representation, and/or the IAL NRMA Loyalty Discount Representations;
- (c) and/or engaged in the IAL Material Non-Disclosure,

did IAL contravene s 1041E of the Corporations Act?

30. If IAL:

- (a) made each of the IAL SGI Final Premium Calculation Representation and/or the IAL SGI Loyalty Discount Representations;
- (b) made each of the IAL NRMA Final Premium Calculation Representation and/or the IAL NRMA Loyalty Discount Representations;
- (c) the IAL Silence Representation; and/or
- (d) engaged in the IAL Material Non-Disclosure,

did IAL contravene s 912A(1)(a) of the Corporations Act?

31. Did:
- (a) the First Plaintiff and the IAL SGI Group Members;
 - (b) the Third Plaintiff and the IAL NRMA Group Members,
- acquire the IAL Insurance Policies in one or more of the circumstances pleaded at paragraph 105?
32. If yes to question 31, above, was IAL, by its responsible officers, aware of the matters pleaded at paragraph 105?
33. Did IAL engage in conduct in trade or commerce that was, in all the circumstances, unconscionable in contravention of s 12CB(1) of the ASIC Act in relation to:
- (a) the First Plaintiff and the IAL SGI Group Members;
 - (b) the Third Plaintiff and the IAL NRMA Group Members?
34. Did IAL engage in a system of conduct or pattern of behaviour (within the meaning of s 12CB(4) of the ASIC Act) which was unconscionable in contravention of s 12CB(1) of the ASIC Act in relation to:
- (a) the First Plaintiff and the IAL SGI Group Members; or
 - (b) further or alternatively, those IAL SGI Group Members who resided in a house which was the subject of an IAL Insurance Policy?
35. Did IAL engage in conduct in or in relation to the provision of a financial service which was, in all the circumstances, unconscionable in contravention of s 991A(1) of the Corporations Act in relation to:
- (a) the First Plaintiff and the IAL SGI Group Members;
 - (b) the Third Plaintiff and the IAL NRMA Group Members?
36. Are:
- (a) the First Plaintiff and the IAL SGI Group Members;

(b) the Third Plaintiff and the IAL NRMA Group Members,

entitled to relief under the ASIC Act and/or the Corporations Act in relation to any loss or damage suffered by reason of any alleged contraventions of the ASIC Act and/or the Corporations Act by IAL as pleaded in this Statement of Claim?

The Second Plaintiff and the IMA Group Members

The questions of law or fact common to the claims of the Second Plaintiff and the IMA Group Members are as follows:

1. Was the Code binding on IMA during the IMA Relevant Period?
2. If yes to question 1 above, was IMA required to:
 - (a) act in a manner towards consumers which was efficient, honest and fair with respect to the offering of IMA Insurance Policies;
 - (b) act in an open, fair and honest manner towards consumers who were considering purchasing or renewing IMA Insurance Policies; and
 - (c) provide consumers with all relevant information as to how each consumer's premium for an IMA Insurance Policy had been calculated?
3. Did IMA make the IMA Offers to the Second Plaintiff and the IMA Group Members?
4. Did the IMA Insurance Policies constitute a contract of insurance between IMA and the Second Plaintiff and an IMA Group Member, comprising the Certificate of Insurance and a PDS?
5. During the IMA Relevant Period, did IMA promote to consumers and offer to the Second Plaintiff and the IMA Group Members the RACV Loyalty Discount?
6. Were the IMA Insurance Policies financial products within the meaning of ss 763A and 763C of the Corporations Act and s 12BAA of the ASIC Act?
7. By issuing IMA Insurance Policies during the IMA Relevant Period, did IMA provide a financial service in trade or commerce to the Second Plaintiff and the IMA Group Members within the meaning of s 12BAB of the ASIC Act?

8. By issuing IMA Insurance Policies during the IMA Relevant Period, did IMA provide a financial service to the Second Plaintiff and the IMA Group Members within the meaning of s 766A of the Corporations Act?
9. By issuing IMA Insurance Policies during the IMA Relevant Period, did IMA deal in a financial product in relation to the Second Plaintiff and the IMA Group Members within the meaning of s 766C of the Corporations Act?
10. Did IMA make the IMA Final Premium Calculation Representation?
11. Did the Certificates of Insurance issued by IMA contain the statements pleaded at paragraph 40?
12. If yes to the question 11, above, did IMA make:
 - (a) the IMA Express Loyalty Discount Representations; and/or
 - (b) the IMA Implied Loyalty Discount Representations (together and separately the IMA Loyalty Discount Representations)?
13. If IMA made the IMA Loyalty Discount Representations, were the IMA Loyalty Discount Representations and the IMA Final Premium Calculation Representations, representations as to future matters within the meaning of s 769C of the Corporations Act and s 12BB of the ASIC Act?
14. Did IMA use the IMA Demand Modelling to calculate the Initial Premiums for consumers, including the Second Plaintiff and the IMA Group Members?
15. Did the IMA Demand Modelling have the effect that a Loyalty Uplift was applied to the Initial Premium of at least some IMA Group Members including possibly the Second Plaintiff?
16. If yes to questions 14 and 15 above, did those matters have the effect pleaded at paragraph 67 in relation to at least some IMA Group Members (and possibly the Second Plaintiff)?
17. If yes to question 16, above, were the IMA Offers made by IMA in circumstances where IMA knew or ought reasonably to have known that:

- (a) a Loyalty Uplift had been applied to the Initial Premiums of at least some IMA Group Members (possibly including the Second Plaintiff); and
 - (b) the application of a Loyalty Uplift to the Initial Premiums of at least some IMA Group Members (possibly including the Second Plaintiff) had the effect pleaded in paragraph 67?
- 18. Did IMA make the IMA Silence Representation?
- 19. Did IMA engage in the IMA Material Non-Disclosure?
- 20. If yes to question 18, above, was the IMA Silence Representation with respect to future matters within the meaning of s 769C of the Corporations Act and s 12BB of the ASIC Act?
- 21. If IMA made the IMA Final Premium Calculation Representation, and/or the IMA Loyalty Discount Representations and/or the IMA Silence Representation and/or engaged in the IMA Material Non-Disclosure, did IMA engage in conduct:
 - (a) in relation to financial products and financial services within the meaning of s 1041H(1) and 1041H(2)(b) of the Corporations Act;
 - (b) in trade or commerce in relation to financial services within the meaning of s 12DA(1) of the ASIC Act;
 - (c) in trade or commerce that is liable to mislead the public as to the nature, the characteristics, the suitability for their purpose or the quantify of any financial service within the meaning of s 12DF(1) of the ASIC Act?
- 22. Were each of the IMA Final Premium Calculation Representation and the IMA Loyalty Discount Representations misleading or deceptive or likely to mislead or deceive?
- 23. Were each of the IMA Silence Representation and the IMA Material Non-Disclosure misleading or deceptive or likely to mislead or deceive?

24. Did IMA have reasonable grounds for making the IMA Final Premium Calculation Representation, the IMA Loyalty Discount Representations and the IMA Silence Representation?
25. Did the Second Plaintiff and the IMA Group Members:
- (a) rely on the IMA Final Premium Calculation Representation and/or the IMA Loyalty Discount Representations and/or the IMA Silence Representation in deciding whether to accept an IMA Offer in order to renew an IMA Insurance Policy; and/or
 - (b) accept an IMA Offer and renew an IMA Insurance Policy because of the IMA Material Non-Disclosure?
26. Did IMA contravene s 1041H(1) and s 1041H(2)(b) of the Corporations Act, s 12DA(1) and s 12DF(1) of the ASIC Act?
27. If IMA made each of the IMA Final Premium Calculation Representation, and/or the IMA Loyalty Discount Representations and/or the IMA Silence Representation, did IMA, in trade or commerce, and in connection with the supply or possible supply of financial services, or in connection with the promotion of the supply or use of financial services:
- (a) make false or misleading representations that services are of a particular standard, quality, value or grade;
 - (b) make false or misleading representations with respect to the price of services?
28. If yes to question 27, above, did IMA contravene s 12DB(1)(a) and (g) of the ASIC Act?
29. If IMA made the IMA Final Premium Calculation Representation, and/or the IMA Loyalty Discount Representations and/or engaged in the IMA Material Non-Disclosure, did IMA contravene s 1041E of the Corporations Act?
30. If IMA made each of the IMA Final Premium Calculation Representation, and/or the IMA Loyalty Discount Representations, and/or the IMA Silence Representation

and/or engaged in the IMA Material Non-Disclosure, did IMA contravene s 912A(1)(a) of the Corporations Act?

31. Did the Second Plaintiff and the IMA Group Members acquire the IMA Insurance Policies in one or more of the circumstances pleaded at paragraph 112?
32. If yes to question 31, above, was IMA, by its responsible officers, aware of the matters pleaded at paragraph 112?
33. Did IMA engage in conduct in trade or commerce that was, in all the circumstances, unconscionable in contravention of s 12CB(1) of the ASIC Act in relation to the Second Plaintiff and the IMA Group Members?
34. Did IMA engage in a system of conduct or pattern of behaviour (within the meaning of s 12CB(4) of the ASIC Act) which was unconscionable in contravention of s 12CB(1) of the ASIC Act in relation to:
 - (a) the Second Plaintiff and the IMA Group Members; or
 - (b) further or alternatively, those IMA Group Members who resided in a house which was the subject of an IMA Insurance Policy?
35. Did IMA engage in conduct in or in relation to the provision of a financial service which was, in all the circumstances, unconscionable in contravention of s 991A(1) of the Corporations Act in relation to the Second Plaintiff and the IMA Group Members?
36. Are the Second Plaintiff and the IMA Group Members entitled to relief under the ASIC Act and/or the Corporations Act in relation to any loss or damage suffered by reason of any alleged contraventions of the ASIC Act and/or the Corporations Act by IMA as pleaded in this Statement of Claim?

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Dated: 4 April 2024

R M DOYLE SC

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This Consolidated Statement of Claim was prepared by K Burke SC and J Page.

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