

BETWEEN:

**PAPINDER SINGH**

Plaintiff

v

**HARVEY NORMAN HOLDINGS LTD (ACN 003 237 545)**

First Defendant

**YOOGALU PTY LTD (ACN 002 269 132)**

Second Defendant

**ORDER**

JUDGE: The Honourable Justice Harris

DATE MADE: 29 May 2025

ORIGINATING PROCESS: Writ filed 19 September 2024

METHOD OBTAINED: At hearing on 13 May 2025

ATTENDANCE: Mr D Fahey, counsel for the Plaintiff

Mr P Crutchfield KC with Mr B McLachlan, counsel for the Defendants

OTHER MATTERS:

- A. This proceeding and proceeding S ECI 2025 01528 issued by Constantinos Daglas (**Daglas Proceeding**) are both brought against the first and second Defendants, and raise common issues of fact and law.
- B. The Daglas Proceeding was initially commenced in the Federal Court of Australia (VID943 of 2024). The Honourable Justice Bennett of the Federal Court made orders on 12 March 2025 transferring the whole of the proceeding to this Court pursuant to s 5(4) of the *Jurisdiction of Courts (Cross-vesting) Act 1987* (Cth).
- C. The Plaintiffs in the Singh Proceeding and the Daglas Proceeding made an application in this Court to consolidate the two proceedings into a single proceeding (**Consolidation Application**).
- D. The Consolidation Application was heard by Justice Harris on 13 May 2025, and reasons were given with these orders on 27 May 2025: *Singh v Harvey Norman Holdings Ltd; Daglas v Harvey Norman Holdings Ltd* [2025] VSC 290.



- E. This order is signed by the Judge pursuant to r 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015*.

**THE COURT ORDERS THAT:**

**Consolidation**

1. Pursuant to rule 9.12 of the *Supreme Court (General Civil Procedure) Rules 2015* and section 33ZF of the *Supreme Court Act 1986* (the **Act**) the proceeding *Constantinos Daglas v Harvey Norman Holdings Ltd & Anor* (S ECI 2025 01528) be consolidated with this proceeding (S ECI 2024 04990) (**Singh Proceeding**) and the consolidated proceeding be identified as proceeding *Singh and Daglas v Harvey Norman Holdings Ltd & Anor* (S ECI 2024 04990) (the **Consolidated Proceeding**).
2. Subject to further order, costs incurred in this Proceeding are to be costs in the Consolidated Proceeding.
3. Pursuant to section 33ZF of the Act, Maurice Blackburn Pty Ltd (**Maurice Blackburn**) is to be the solicitor on record for the Plaintiffs in the Consolidated Proceeding and Echo Law Pty Ltd (**Echo Law**) is to act as an agent for Maurice Blackburn on the following bases:
  - a. Echo Law will act as Maurice Blackburn's agent (together, the **Lawyers**) for the prosecution of claims the subject of the Consolidated Proceeding in accordance with the Agency Retainer Agreement substantially in the form contained at pages 57 – 64 of Exhibit VM-1 of the affidavit of Vavaa Mawuli affirmed on 10 April 2025 (**Agency Retainer Agreement**);
  - b. the Lawyers must conduct the Consolidated Proceeding in accordance with:
    - i. the Agency Retainer Agreement, with the exception of clause 3.12 and Schedule A (Funding Arrangements); and
    - ii. the Cooperative Litigation Protocol in the form contained at pages 66 – 75 of Exhibit VM-1 of the affidavit of Vavaa Mawuli affirmed on 10 April 2025;
  - c. all correspondence sent to the Defendants or the Court on behalf of the Plaintiffs and group members in the Consolidated Proceeding will be sent jointly by the Lawyers;
  - d. a single counsel team will be engaged to represent the Plaintiffs and group members in the Consolidated Proceeding;
  - e. the Plaintiffs will jointly:



- i. make any interlocutory applications that are necessary in the Consolidated Proceeding save for any application in respect of non-common issues;
- ii. respond to any interlocutory applications filed by the Defendants in the Consolidated Proceeding; and
- iii. retain, brief and instruct expert witnesses in the Consolidated Proceeding.

#### **Costs limiting**

4. The costs of any work performed in the Consolidated Proceeding on and after the date of these orders that relate to work that has been performed solely by reason of there being two firms representing the Plaintiffs in the Consolidated Proceeding, and where such work would not have needed to be performed if there was only one firm representing the Plaintiffs in the Consolidated Proceeding, are not to be recoverable against the Defendants in the Consolidated Proceeding subject to any further order of the Court.

#### **Disclosure of critical documents**

5. By 4pm on 24 June 2025, the parties are to disclose to each party all critical documents pursuant to section 26 of the *Civil Procedure Act 2010* (Vic) to the extent that they have not already done so.

#### **Pleadings**

6. Pursuant to rules 36.01 and 36.04 of the Rules, the Plaintiffs in the Consolidated Proceeding are granted leave to file and serve:
  - a. a consolidated writ; and
  - b. a consolidated statement of claim.
7. Pursuant to rule 2.04 of the Rules, the requirements of rule 36.05(4) of the Rules are dispensed with for the purpose of the Plaintiffs filing and serving the consolidated writ and consolidated statement of claim in the Consolidated Proceeding.
8. Within 28 days of the parties complying with order 5, the Plaintiffs in the Consolidated Proceeding are to file and serve a consolidated writ and consolidated statement of claim.
9. Within 56 days of being served with the consolidated writ and consolidated statement of claim, the Defendants are to file and serve a defence to the consolidated statement of claim.
10. Within 14 days of being served with the Defendants' defence, the Plaintiffs are to file and serve any reply to the Defendants' defence.



### **Group costs order**

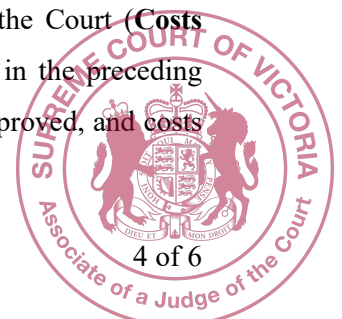
11. Within 28 days of being served with the Defendants' defence in accordance with order 9, the Plaintiffs are to file and serve any application for a group costs order pursuant to section 33ZDA of the Act (**GCO application**), along with a timetable in relation to the GCO application.

### **Confidentiality**

12. Pursuant to s 33ZF of the Act and/or r 28.05(4) of the Rules, subject to further order of the Court, each item in Schedule 1 which is identified as Confidential from Defendant is confidential and must not be published or made available to any persons except:
  - a. the Plaintiffs and their legal representatives;
  - b. any director or employee of CF FLA Australia Investments 4 Pty Ltd; and
  - c. personnel of the Court.

### **Costs Monitor**

13. Pursuant to section 33ZF of the Act, an independent costs monitor, to be nominated by the Plaintiffs, be appointed (**Costs Monitor**).
14. The Costs Monitor shall:
  - (a) make such enquiries of the Plaintiffs' solicitors as they may consider necessary or appropriate to make an informed assessment of:
    - (i) what work done and costs incurred by each firm have been necessary or reasonable for the purposes of recovery of costs on a solicitor-own client taxation;
    - (ii) whether in their opinion any, and if so what, work done and costs incurred by either firm have not been necessary or reasonable for the purposes of recovery of costs on a solicitor-own client taxation; and
    - (iii) whether in their opinion there has been any, and if so what, work has been performed by the Plaintiffs' Solicitors in the Consolidated Proceeding by reason of there being two firms jointly representing the Plaintiffs rather than one firm; and
  - (b) provide at six monthly intervals, commencing 1 February 2026, to the Plaintiffs' solicitors on a confidential basis a written report addressed to the Court (**Costs Reports**) as to each assessment in subparagraph (a) conducted in the preceding period, in sufficient detail to enable quantification of the costs approved, and costs



disapproved or queried, by the Costs Monitor, and which includes the identification of any work falling within the description of paragraphs 14(a) (ii) and (iii) above, and associated costs thereof.

15. Subject to any further order, the Costs Reports shall be provided by the Costs Monitor to:
  - (a) the Chambers of the trial judge:
    - (i) at the direction of the Court, where given; and
    - (ii) at the time of any settlement approval; and
  - (b) any mediator at the time of any mediation.
16. The Plaintiffs' solicitors are to notify the Defendants and the Court of the Costs Monitor nominated pursuant to order 13 above, by 4pm on 24 June 2025.
17. The Plaintiffs' solicitors must provide such information, access to personnel and access to documents as the Costs Monitor requires.
18. The reasonable fees of the Costs Monitor shall be borne equally by the Plaintiffs in the Consolidated Proceeding and shall not be recoverable against the Defendants in the Consolidated Proceeding.

DATE AUTHENTICATED: 29 May 2025



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THE HONOURABLE JUSTICE HARRIS



## Schedule 1

### Confidential from Defendants

Document	Page number	Pinpoint reference
<b>Affidavit of Vavaa Mawuli dated 10 April 2025 and Exhibit VM-1</b>		
Exhibit VM-1	59-60	Table in paragraph [3.7]
Exhibit VM-1	60	Paragraph [3.9] after the phrase ‘12-month period’
Exhibit VM-1	60	Paragraph [3.13] between the phrases ‘incur an expense’ and ‘(Approved Expense Limit)’
Exhibit VM-1	76	At paragraphs [1.1] (b), (d), (f)
Exhibit VM-1	77	At paragraphs [1.1] (l), (m), (p)
Exhibit VM-1	78-80	Paragraphs [3.4], [4.1], [4.2]-[4.4]
Exhibit VM-1	81-85	All
Exhibit VM-1	88-89	Paragraph [4.6]
Exhibit VM-1	89	Paragraph [6.4]
Exhibit VM-1	90	Paragraphs [8.2]-[8.4]
Exhibit VM-1	93	Annexure A