

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

S ECI 2022 00313

BETWEEN

**ADAM PETER ROWE**

Plaintiff

- and -

**TOYOTA MOTOR CORPORATION AUSTRALIA LIMITED  
(ACN 009 686 097)**

Defendant

**ORDER**

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**JUDGE:** The Honourable Justice Watson

**DATE MADE:** 1 November 2024

**ORIGINATING PROCESS:** Writ filed 7 February 2022

**HOW OBTAINED:** On the papers

**ATTENDANCE:** Not applicable

**OTHER MATTERS:**

- A. This order is signed by the Judge pursuant to rule 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015* (Vic).
- B. Following the substitution of Adam Peter Rowe under order 1, Mr Rowe is to remain a group member in the proceeding.

**THE COURT ORDERS BY CONSENT THAT:**

**Substitution of Plaintiff**

1. Pursuant to section 33T and/or 33ZF of the *Supreme Court Act 1986* (Vic), James Butterworth be substituted as plaintiff in place of Adam Peter Rowe.
2. By 8 November 2024, the plaintiff is to file by way of email to the Judge's Associate:
  - (a) Second Updated Group Proceeding Summary Statement; and
  - (b) Updated Funding Information Sheet.



3. By 8 November 2024, the plaintiff is to email an un-redacted copy of any updated costs agreement between James Butterworth and Maddens Lawyers and a copy of any updated Litigation Funding Agreement to the Judge's Associate.
4. By 8 November 2024, the plaintiff is to serve on the defendant a redacted copy of any updated costs agreement between James Butterworth and Maddens Lawyers, and a redacted copy of any updated Litigation Funding Agreement pursuant to clause 13.7 of the Gen 10 Conduct of Group Proceedings (Class Actions) (Second Revision) Supreme Court Practice Note.

### **Pleadings**

5. By 18 November 2024, the defendant shall inform the plaintiff in writing whether or not the defendant opposes the filing of the plaintiff's proposed Amended Writ, provided on 31 October 2024 or proposed Third Further Amended Statement of Claim (**3FASOC**) provided on 25 October 2024.
6. Subject to the defendant not opposing the plaintiff's proposed Amended Writ or proposed 3FASOC under order 5 above:
  - (a) the plaintiff be granted leave to file and serve the Amended Writ and 3FASOC by 20 November 2024.
  - (b) the parties are to confer in relation to the date by which the defendant is to file and serve any amended defence to the 3FASOC (and for the plaintiff to file any reply) and, by 29 November 2024:
    - (i) notify the Judge's Associate as to the agreed dates, or
    - (ii) where not agreed, file and serve submissions not exceeding 2 pages for each party in support of their competing dates, with dates to be determined by the Court.
7. If the defendant opposes the filing of the plaintiff's proposed Amended Writ or 3FASOC under order 5 above:
  - (a) by 25 November 2024, the plaintiff is to file and serve any application for leave to amend its pleading substantially in the form of the Amended Writ or 3FASOC (**Amendment Application**), including any submissions in support of the Amendment Application.
  - (b) by 6 December 2024, the defendant is to file and serve any submissions in response to the Amendment Application.
  - (c) by 13 December 2024, the plaintiff is to file and serve any submissions in reply.
8. The Amendment Application be listed for hearing on **27 February 2025**.




## Discovery

9. The date in order 3 of the orders made 17 November 2023 (by which the defendant is to file and serve an affidavit deposing to the steps taken to request and obtain documents within categories 2(a) to 2(e) of the orders made on 17 November 2023 from TMC and identify any such documents provided to it by TMC), be extended to 8 November 2024
10. The date in order 3 of the orders made 13 August 2024 (by which the defendant is to file and serve an affidavit deposing to the steps taken to request and obtain documents within categories 2(a) to 2(e) of the orders made on 17 November 2023 from TMC with respect to documents provided to TMC from TICO and identify any such documents provided to TMC by TICO) is extended to 8 November 2024.
11. The parties are to participate in the following discovery conferral conference:
  - (a) By 22 November 2024, the plaintiff is to provide to the defendant a proposed list of questions and an agenda for the discovery conferral conference; and
  - (b) By 13 December 2024, the parties are to participate in a discovery conferral conference (either in-person or via video-conference) with respect to the information sought by the plaintiff in sub-paragraph 11(a) above.

## Other matters

12. A case management conference be listed for **13 March 2025**.
13. Costs reserved.
14. Liberty to apply.

**DATE AUTHENTICATED:** 1 November 2024

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**THE HONOURABLE JUSTICE WATSON**

