

IN THE SUPREME COURT OF VICTORIA
COMMERCIAL COURT
GROUP PROCEEDINGS

S ECI 2023 02581

BETWEEN:

TRACEY LEIGH HEPI AND ERU MARTIN HEPI

Plaintiffs

- and -

TOYOTA FINANCE AUSTRALIA LIMITED (ACN 002 435
181)

Defendant

GENERAL FORM OF ORDER



JUDGE:

The Honourable Justice M Osborne

DATE MADE:

24 February 2026

ORIGINATING PROCESS:

Writ filed on 16 June 2023

HOW OBTAINED:

At the directions hearing of the proceeding

ATTENDANCE:

O Bigos KC with E Dias of counsel for the Plaintiffs

K Foley SC with L O'Rourke of counsel for the First Defendant

S Rosewarne KC with J Waller of counsel for the Second Defendant

OTHER MATTERS:

The Court notes that:

- A. In accordance with order 1 of the orders made by the Honourable Justice M Osborne dated 26 March 2025, this proceeding and *Hepi v Toyota Finance Australia* (S ECI 2024 05243) (the **Insurance Proceeding**) are case managed together; and
- B. a corresponding version of these orders have been made in the Insurance Proceeding.

- A. This Order is authenticated by the Judge of the Court pursuant to Rule 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2025 (Vic)* ('Rules').

THE COURT ORDERS THAT:

Plaintiffs' Substitution Application

1. Pursuant to rule 9.06 of the *Supreme Court (General Civil Procedure) Rules 2025* (Vic) (the **Rules**), s 33T(1) and/or s 33ZF of the *Supreme Court Act 1986* (Vic), Jaiden Petrucci (**Substitute Plaintiff**) be substituted for Tracey Leigh Hepi and Eru Martin Hepi (**Original Plaintiffs**) as the plaintiff in this proceeding, and the title to the proceeding be renamed as *Jaiden Petrucci v Toyota Finance Australia Limited* (S ECI 2023 02581).
2. Pursuant to rule 36.01 of the Rules, the Substitute Plaintiff has leave to file and serve a further amended writ and further amended statement of claim substantially in the form provided to the Defendant on 4 February 2026.
3. Orders 1 and 2 be made on the following basis:
 - (a) the Substitute Plaintiff, but not the Original Plaintiffs, will be liable to the Defendant or Aioi Nissay Dowa Insurance Company Australia Pty Ltd (ACN 132 524 282) (**ADICA**) for any costs order which had been made against the Original Plaintiffs in favour of the Defendant or ADICA in this proceeding prior to the date of this application;
 - (b) the Defendant or ADICA will be liable to the Substitute Plaintiff, but not to the Original Plaintiffs, for any costs order made against the Defendant or ADICA in favour of the Original Plaintiffs in this proceeding prior to the date of this application;
 - (c) if and to the extent that a costs order is made in future in favour of the Defendant in respect of costs incurred prior to the date of this application, such costs order will be made against the Substitute Plaintiff, but not the Original Plaintiffs; and
 - (d) if and to the extent that a costs order is made in future against the Defendant in respect of costs incurred prior to the date of this application, such costs order will be made in favour of the Substitute Plaintiff, but not the Original Plaintiffs.
4. Any other references in any existing orders to the Plaintiffs be taken to be a reference to the Substitute Plaintiff only.
5. The Substitute Plaintiff pay the Defendant's costs thrown away in consequence of orders 1 and 2 above.

Pleadings

6. Within 28 days of the Substitute Plaintiff filing the further amended statement of claim, the Defendant file and serve a defence to the further amended statement of claim.
7. Within 14 days of the Defendant filing and serving the defence, the Substitute Plaintiff file and serve any reply to that defence.

Opt Out Notice

8. By **6 March 2026**, the defendant is to:
 - (a) respond to the plaintiffs' proposed form of order and draft notice regarding the commencement of the proceeding and the rights of group members to opt out of the proceeding which was circulated by the plaintiffs on 18 February 2026 (the '**Opt Out Notice**'); and
 - (b) file any application for soft class closure (the '**Soft Class Closure Application**').
9. By **11 March 2026**, the defendants are to file any evidence and submissions in support of the same and in relation to the form and content of the Opt Out Notice.



10. By **18 March 2026**, the plaintiffs are to file and serve any evidence and submissions in relation to the form and content of the Opt Out Notice, and in response to the defendant's Soft Class Closure Application and evidence and submissions in respect of the same.
11. Any dispute as to the Opt Out Notice and any Soft Class Closure Application be listed for hearing on **20 March 2026 at 10:00am**.
12. Liberty to apply.

DATE AUTHENTICATED: **24 February 2026**



THE HONOURABLE JUSTICE M OSBORNE



