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## **A. Parties**

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### **A.1 The Defendant**

#### **1 The Defendant (**Entain**):**

- (a) is incorporated under the *Corporations Act 2001* (Cth) and able to be sued;
- (b) is licensed in the Northern Territory by the Northern Territory Racing and Wagering Commission (**NTRWC**) (and previously by the Northern Territory Racing Commission (**NTRC**)) to accept bets and wagers by electronic transmission, 24 hours per day;
- (c) offers its customers in Australia a service for the placing, making, receiving or acceptance of bets using an internet carriage service;
- (d) trades under the registered business names of “Ladbrokes AU” and “Neds AU”; and
- (e) is a person within the meaning of:
  - (i) the *Interactive Gambling Act 2001* (Cth) (**IGA**); and
  - (ii) the Australian Consumer Law (**ACL**), being Schedule 2 to the *Competition and Consumer Act 2010* (Cth) (**CCA**).

### **A.2 The Plaintiff and Group Members**

#### **2 The Plaintiff:**

- (a) is a natural person;
- (b) resident of Australia;
- (c) has held a betting account with Entain since 9 August 2019;
- (d) was a customer of Entain within the meaning of the IGA;
- (e) was and is a consumer within the meaning of section 3(3) of the ACL; and
- (f) placed at least one bet with Entain using the Fast Code Service (defined in paragraph 8 below).

- 3 This proceeding is commenced as a group proceeding pursuant to Part 4A of the *Supreme Court Act 1986* (Vic) by the Plaintiff on his own behalf and on behalf of all persons who **(Group Members)**:
- (a) have placed one or more bets with Entain using the Fast Code Service (defined in paragraph 8 below) from ~~at least~~ 4 March 2019 to 4 March 2025 (**Relevant Period**); and
  - (b) suffered loss or damage arising from their bets with Entain using the Fast Code Service; and
  - (c) are not:
    - (i) a Minister of the Commonwealth, a State or Territory;
    - (ii) a judge, magistrate or other judicial officer of the Commonwealth, a State or Territory; or
    - (iii) an officer or employee of Entain.
- 4 There are seven or more Group Members which are based in every state and territory in Australia.
- 5 Some of the Group Members were physically present in Australia at the time of engaging in the conduct in paragraph 3(a) above.

## **B. Entain's conduct**

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### **B.1 The Fast Code Service**

- 6 At all material times, Entain has provided betting and wagering services including through each of the following:
- (a) the websites [Ladbrokes.com.au](http://Ladbrokes.com.au) (**Ladbrokes Website**) and [Neds.com.au](http://Neds.com.au) (**Neds Website**) (together, the **Entain Websites**); and
  - (b) applications for smartphone devices providing access to betting and wagering services under the Ladbrokes name (**Ladbrokes App**) and the Neds name (**Neds App**) (together, the **Entain Apps**).
- 7 During the Relevant Period, Entain provided betting and wagering services to customers in Australia:

- (a) on the outcome of a sporting event where the bets are placed, made, received or accepted after the beginning of the event; and
  - (b) on a contingency that may or may not happen in the course of a sporting event where the bets are placed, made, received or accepted after the beginning of an event.
- 8 During the Relevant Period, Entain provided a service (**Fast Code Service**) whereby:
- (a) customers could place a bet after an event has begun:
    - (i) relating to the outcome of the sporting event; or
    - (ii) on a contingency that may or may not happen in the course of the sporting event;
  - (b) the bet was placed by:
    - (i) the customer using the Entain Websites or Entain Apps to provide the following information:
      - (A) selection of the event on which the bet is to be placed;
      - (B) selection of the bet; and
      - (C) selection of the bet type,  
**(Bet Information)**;
    - (ii) the Entain Websites or Entain Apps generating a short code encapsulating the Bet Information (**Fast Code**);
    - (iii) in the case of:
      - (A) the Entain Websites — the Fast Code and a telephone number for Entain being displayed to the customer;
      - (B) the Entain Apps — the Fast Code and a button labelled “Call now to place bet” being displayed to the customer, which button if pressed pre-fills Entain’s telephone number on the customer’s phone;
    - (iv) the customer initiating the telephone call to Entain, identifying themselves by name to Entain’s telephone operator and reciting the Fast Code;
    - (v) the Entain telephone operator:

- (A) may recite to the person the Bet Information;
  - (B) asking the customer for the amount of the bet and stating the current odds;
  - (C) placing the bet for the customer;
  - (D) submitting the bet in the Entain system; and
- (vi) the amount of the bet being deducted from the customer's Entain account.

### **Particulars**

To the best of the Plaintiff's knowledge, Entain offered the Fast Code service through the Ladbrokes Website and Ladbrokes App from around June 2018, and the Neds Website and Neds App from around July 2019.

9 The conduct alleged above in paragraphs 6 to 8 is ongoing as at the date of filing this Statement of Claim.

### **B.2 Relevant conduct**

10 The Fast Code Service on each occasion it was offered to the Plaintiff or a Group Member during the Relevant Period was:

- (a) a gambling service within the meaning of section 4 of the IGA;
- (b) provided an in-play betting service within the meaning of section 10B of the IGA;
- (c) provided in the course of carrying on a business within the meaning of section 5(1)(a) of the IGA;
- (d) provided in trade or commerce within the meaning of section 2 of the ACL;
- (e) provided to customers using:
  - (i) an internet carriage service;
  - (ii) alternatively, any other listed carriage service; and
- (f) not an excluded wagering service under section 5(3) and section 8A(3) of the IGA.

11 By reason of the matters identified in paragraphs 8 and 10, the Fast Code Service:

- (a) is provided on the basis of dealings with the customer within the meaning of section 8AA(1)(a) of the IGA;
  - (b) the dealings are not wholly by way of voice call using a carriage service; and
  - (c) therefore the Fast Code Service is not a telephone betting service within the meaning of section 8AA(1) of the IGA.
- 12 Further or in the alternative, the Bet Information encapsulated by the Fast Code, as pleaded at paragraph 8(b)(i) above, includes the following information which can be provided not by way of voice call:
- (a) the selection of a bet within the meaning of section 8AA(8)(a) of the IGA;
  - (b) the selection of a bet type within the meaning of section 8AA(8)(b) of the IGA; and
  - (c) therefore, the Fast Code Service is not a telephone betting service for the purposes of the IGA.
- 13 By reason of the matters in:
- (a) paragraphs 6 to 11;
  - (b) further or in the alternative, paragraphs 6 to 12,
- the Fast Code Service is a prohibited interactive gambling service within the meaning of section 5(1) of the IGA.
- 14 The Fast Code Service is offered by Entain to, *inter alia*, its customers present in Australia and is therefore a gambling service with an “Australian-customer link” within the meaning of section 8 of the IGA.
- 15 The conduct alleged above in paragraphs 10 to 14 is ongoing as at the date of filing this Statement of Claim.
- 16 By reason of the matters in paragraphs 7 to 14, Entain’s provided provision of the Fast Code Service, which is a prohibited gambling service, that contravenes, and as at the date of filing this Amended Statement of Claim, continues to contravene, section 15(2A) of the IGA.

### **B.3 The Terms & Conditions**

- 17 At all material times that Entain has provided the Fast Code Service, it has done so subject to written terms and conditions (**Terms & Conditions**).
- 18 At all material times since Entain has provided the Fast Code Service, the Terms & Conditions have provided:
- (a) that Entain is licensed and regulated by the NTRWC (previously NTRC), and that all bets made with Entain are considered to be placed and received in the Northern Territory and processed by Entain on its servers in the Northern Territory, in accordance with Entain's licence;
  - (b) that the customer's continued use of the Entain Websites, application to open a betting account and/or access, and/or downloading or use of Entain's betting platforms will constitute acceptance of the Terms & Conditions;
  - (c) that Entain reserved the right to make changes to its Terms & Conditions at any time, and the customer's continued use of the betting platform or betting account once a change takes effect will be deemed to be the customer's acceptance of that change;
  - (d) that the customer must not use Entain's betting platforms for any purpose which is or may be considered, amongst other things, unlawful, and that Entain reserved the right to suspend or terminate the customer's betting account or the customer's access to the betting platforms if it reasonable considers that the customer is in breach of this obligation;
  - (e) that the customer agrees not to open an account, or attempt to use their account, if they are within a restricted jurisdiction or outside of Australia and New Zealand, and that Entain reserved the right to void any bets and close a customer's account if the customer is resident of, or located in, a jurisdiction that Entain considered to be a "restricted jurisdiction" or otherwise from where it is unlawful for the customer to bet with Entain;
  - (f) that the customer may only access or use Entain's betting platforms and/or open an account with Entain if it is legal for the customer to do so within their jurisdiction, and that the customer warrants that it is not illegal in their jurisdiction to access or use Entain's betting platforms and/or open an account with Entain;

- (g) that the accessibility of Entain's betting platforms in any jurisdictions in which such activities are illegal does not constitute an offer, solicitation or invitation by Entain for the use of the betting platforms or placing a bet with Entain;
- (h) that Entain had no obligation to accept or retain a customer, or provide or continue to provide a customer with an account, where (amongst other things) Entain reasonably believed that there has been a breach of relevant law by the customer;
- (i) that Entain may suspend or terminate a customer's account at any time for legal reasons or where Entain have reason to believe that the customer is in breach of the Terms & Conditions, including if the customer has used the betting platforms in a fraudulent manner or for illegal, unlawful or improper purposes or if directed to requested to do so by a government agency, the police, a regulatory authority, a racing or sporting body or a court;
- (j) that Entain's betting platforms may be used only for lawful purposes and in a lawful manner, and that the customer agreed to comply at all times with all applicable laws, statutes and regulations when accessing or using Entain's betting platforms, the customer's account or when placing a bet with Entain; and
- (k) bets may only be made via telephone or on the internet.

### **Particulars**

The best particulars the Plaintiff can currently provide are that:

- (i) The statements in subparagraph (a) were made in clause 3.6 from at least 10 October 2018.
- (ii) The statements in subparagraph (b) were made in clauses 3.1 and 3.3 from at least 10 October 2018.
- (iii) The statements in subparagraph (c) were made in clauses 4.1 and 4.4 from at least 10 October 2018.
- (iv) The statements in subparagraph (d) were made in clause 5.4 from at least 10 October 2018.
- (v) The statements in subparagraph (e) were made in clauses 6.1 and 6.6 from at least 10 October 2018.
- (vi) The statements in subparagraph (f):

- (A) were made in clause 6.3 from at least 10 October 2018;
- (B) have been made in clause 6.2 from at least 7 December 2021.
- (vii) The statements in subparagraph (g) were made in clause 6.5 from at least 10 October 2018.
- (viii) The statements in subparagraph (h):
  - (A) were made in clause 15.1 from at least 10 October 2018;
  - (B) have been made in clause 19.1 from at least 7 December 2021.
- (ix) The statements in subparagraph (i):
  - (A) were made in clause 15.2 from at least 10 October 2018;
  - (B) have been made in clause 19.2 from at least 7 December 2021.
- (x) The statements in subparagraph (j):
  - (A) were made in clause 28.1 from at least 10 October 2018;
  - (B) have been made in clause 32.1 from at least 7 December 2021.
- (xi) The statements in subparagraph (k) were made in clause 13.3 from at least 7 December 2021.

Further particulars may be provided after discovery and/or evidence.

19 The effect of the Terms & Conditions pleaded in paragraph 18 above is that Entain warranted, and continues to warrant, that the Fast Code Service:

- (a) was provided lawfully; and/or
- (b) complied with the IGA and its NTRC licence,

**(IGA Compliance Warranty).**

20 At all material times, Entain displayed, and continues to display, the Terms & Conditions on the Entain Websites and in the Entain Apps.

### C. The Bet Contracts

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21 The Plaintiff was deemed to have read and accepted the Terms & Conditions pleaded at paragraph 18 above as amended from time to time by Entain and published on the Ladbrokes Website.

22 On 10 October 2020, the Plaintiff placed a bet using the Fast Code Service as follows:

- (a) the Plaintiff logged onto his Ladbrokes account on the Ladbrokes App;
- (b) the Plaintiff used the Ladbrokes App to provide the Bet Information to Entain;
- (c) the Ladbrokes App generated a short code encapsulating the Fast Code;
- (d) the Fast Code and a button labelled “Call now to place bet” was displayed to the Plaintiff, which button when pressed pre-filled Entain’s telephone number on the customer’s phone;
- (e) the Plaintiff initiated the telephone call to Entain, identified himself to Entain’s telephone operator, cited the amount of the bet, and recited the Fast Code;
- (f) the Entain telephone operator:
  - (i) recited the Bet Information to the Plaintiff;
  - (ii) asked the Plaintiff to confirm the amount of the bet;
  - (iii) placed the bet for the Plaintiff; and
  - (iv) submitted the bet in the Entain system; and
- (g) the amount of the bet was deducted from the Plaintiffs’ Ladbrokes account.

23 On the occasion the Plaintiff placed a bet with Entain using the Fast Code Service as pleaded in paragraph 22 above, the Plaintiff made that bet pursuant to a contract between himself and Entain (**Bet Contract**).

24 On each occasion the Group Members placed a bet with Entain using the Fast Code Service described above at paragraphs 6, 7, 8, 22 and 23, the Group Members made a bet pursuant to the Bet Contract.

## D. Contraventions of the ACL

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### D.1 Contravening conduct – s 18 of the ACL

25 By the conduct pleaded in paragraphs 6 to 8, and 22 to 24 above, and the terms of the Terms & Conditions at paragraphs 18 and 19 above, Entain represented to the Plaintiff and Group Members that it was lawfully providing the Fast Code Service (**Fast Code Service Representation**).

#### Particulars

The representation was implied from the conduct identified in paragraphs 6 to 8, 21 to 24 and the terms identified at paragraphs 18 and 19 above.

The particulars to paragraph 18 are repeated.

26 To the extent the Fast Code Service Representation was a representation of opinion, Entain did not, at any time that Entain offered to or did provide the Fast Code Service, have reasonable grounds for that opinion.

27 Further, to the extent that the Fast Code Service Representation was a representation as to a future matter, Entain did not at any time that it offered to or did provide the Fast Code Service, have reasonable grounds for making the representation, and the Plaintiff relies on s 4(1)-(2) of the ACL.

28 At all material times that Entain provided the Fast Code Service, the Fast Code Service Representation was false because Entain's provided provision of the Fast Code Service, which is a prohibited interactive gambling service, that was and is contrary to section 15(2A) of the IGA.

#### Particulars

The Fast Code Service is not a telephone betting service within the meaning of section 8AA(1) of the IGA. For that reason, it is a prohibited interactive gambling service pursuant to section 5(1) of the IGA.

Refers to and repeats paragraphs 10 to 16 above.

29 By reason of the matters at paragraphs 11 to 16, the conduct of Entain:

(a) pleaded in paragraphs 6 to 11 and 18 above; and/or

(b) pleaded in paragraphs 25 to 28 above;

was, and as at the date of filing this Statement of Claim, continues to be misleading or deceptive, or likely to mislead or deceive, contrary to section 18 of the ACL.

## E. Contract claims

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### E.1 Breach of Bet Contract

30 By reason of:

- (a) Entain providing the Fast Code Service as pleaded at paragraphs 10 and 11 above; and
- (b) the fact that the Fast Code Service was a prohibited interactive gambling service within the meaning of section 5(1) of the IGA; and
- (c) the fact that Entain provided ~~the provision of the~~ Fast Code Service is contrary to section 15(2A) of the IGA,

Entain has breached, and as the date of filing this Amended Statement of Claim, continues to breach the IGA Compliance Warranty of the Bet Contract.

### E.2 ~~Ground of rescission – illegality~~

31 Each Bet Contract:

- (a) was contrary to section 15(2A) the IGA; and
- (b) further or alternatively, is a contract the making of which, or the performance of which, is contrary to section 15(2A) of the IGA.

32 By reason of the matters in paragraph 31, for each bet placed by the Plaintiff and Group Members pursuant to the Bet Contract, which resulted in a loss to the Plaintiff and the Group Members (**Losing Bet Contract**), that each Losing Bet Contract is void ~~voidable~~ for illegality, or alternatively unenforceable ~~void~~ for illegality.

## **F. Loss or damage**

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### **F.1 ACL claims**

- 33 At all material times during the Relevant Period if Entain had not provided gambling services prohibited by s 15(2A) of the IGA, the Plaintiff and the Group Members would not have placed bets using the Fast Code Service.
- 34 Further, or in the alternative, at all material times during the Relevant Period the Plaintiff and the Group Members placed bets using the Fast Code Services in reliance on the Fast Code Service Representation.
- 35 The Plaintiff and some or all Group Members have suffered loss or damage and will continue to suffer loss or damage, within the meaning of s 236 of the ACL, because of Entain's conduct referred to in paragraph 29 above.

#### **Particulars**

1. The Plaintiff and all Group Members relied on the Fast Code Service Representation in making one or more bets using the Fast Code Service.
  2. The Group Members who made one or more bets using the Fast Code Service have lost at least the amount of those bets.
  3. To the best of the Plaintiff's knowledge, the Plaintiff has suffered loss and damage in the amount of \$475, being the amount of loss placing an in-play bet using the Fast Code Service as identified above at paragraph 22.
  4. Further particulars of the Plaintiff's and Group Members' loss or damage will be provided at an appropriate stage in the proceeding.
- 36 Further or alternatively, some or all Group Members have suffered or are likely to suffer loss or damage, within the meaning of s 237 of the ACL, because of Entain's conduct referred to in paragraph 29 above.

#### **Particulars**

The particulars to paragraph 35 above are repeated.

## F.2 Breach of Bet Contract

37 By reason of the matters pleaded at paragraph 30 above, the Plaintiff and the Group Members have suffered loss or damage and will continue to suffer loss or damage.

### Particulars

1. If Entain had not breached the IGA Compliance Warranty and not provided gambling services prohibited by section 15(2A) of the IGA, the Plaintiff and the Group Members would not have made one or more bets using the Fast Code Service.
2. The Plaintiff and the Group Members who made one or more bets using the Fast Code Service have lost at least the amount of those bets.
3. To the best of the Plaintiff's knowledge, the Plaintiff has suffered loss and damage in the amount of \$475, being the amount of loss placing an in-play bet using the Fast Code Service as identified above at paragraph 22.
4. Further particulars of the Plaintiff's and Group Members' loss or damage will be provided at an appropriate stage in the proceeding.

## F.3 ~~Rescission and r~~Restitution

38 By reason of the matters in paragraphs 31 and 32 above:

- ~~(a) the Plaintiff and each Group Member is entitled to rescind each Bet Contract between them and Entain; and~~
- (b) alternatively, each Losing Bet Contract bet placed by the Plaintiff and each Group Member pursuant to the IGA Compliance Term in the Bet Contract with Entain is void or unenforceable-voidable.

39 In the premises:

- (a) the payments made by the Plaintiff and Group Members to Entain pursuant to the Bet Contracts are monies had and received by Entain to the use of the Plaintiff and Group Members;

### Particulars

1. The Plaintiff has suffered loss and damage in the amount of \$475, being the amount of loss placing in-play bets using the Fast Code Service.
  2. Further particulars of the Group Members' loss or damage will be provided at an appropriate stage in the proceeding.
- (b) Entain has been unjustly enriched by the receipt of those payments at the expense of the Plaintiff and Group Members;
- (c) it would be unconscionable for Entain to retain those payments; and
- (d) Entain is obliged to make restitution and repay those payments to the Plaintiff and each Group Member.

### **G. Orders sought by the Plaintiff**

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40 The Plaintiff claims on his own behalf and on behalf of Group Members:

- (a) damages for the Plaintiff and each Group Member under section 236 of the ACL;
- (b) compensation for the Plaintiff and each Group Member under section 237 of the ACL in the form of order under section 243(d) of the ACL that Entain refund the money paid by the customer pursuant to the Bet Contract;
- (c) damages for breach of contract;
- ~~(d) a declaration that the Plaintiff and each Group Members is entitled, at their individual election, to an order for rescission of their Bet Contract(s);~~
- (e) ~~alternatively,~~ a declaration that the Plaintiff's and each Group Member's Bet Contract(s) are void;
- (f) alternatively, a declaration that the Plaintiff and each Group Members' Losing Bet Contract is unenforceable;
- ~~(g)~~(f) an order for restitution of all moneys paid by the Plaintiff and Group Members to Entain pursuant to each ~~rescinded or void~~ unenforceable Losing Bet Contract;

~~(h)(g)~~ until further order of the Court, an order pursuant to the inherent jurisdiction of the Court, further or alternatively, section 232 of the ACL, restraining the Defendant from engaging in the conduct defined as the Fast Code Service;

~~(i)(h)~~ judgment pursuant to section 33Z(1) of the Supreme Court Act;

~~(j)(i)~~ interest;

~~(k)(j)~~ costs;

~~(l)(k)~~ interest on costs.

## **H. Common questions of law or fact**

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

### The Fast Code Service

- 1 During what period, if any, has Entain provided the Fast Code Service?
- 2 Is the Fast Code Service a prohibited interactive gambling service within the meaning of section 5 of the IGA?
- 3 In providing the Fast Code Service to each Group Member, did Entain contravene section 15(2A) of the IGA?
- 4 In providing the Fast Code Service to each Group Member, does Entain continue to contravene section 15(2A) of the IGA?

### Misleading or deceptive conduct

- 5 Did Entain make the Fast Code Service Representation to each customer in the Relevant Period?
- 6 In making the Fast Code Service Representation, did Entain engage in conduct in trade or commerce, within the meaning of section 2 of the ACL?
- 7 Was the Fast Code Service Representation false?
- 8 Alternatively, was the Fast Code Service Representation a representation as to a future matter?
- 9 Did Entain have reasonable grounds for the Fast Code Service Representation when making it to the Plaintiff and each Group Member?

- 10 Did Entain engage in conduct that was misleading or deceptive, or likely to mislead or deceive, contrary to section 18 of the ACL?
- 11 Does Entain continue to engage in conduct that is misleading or deceptive, or is likely to mislead or deceive, contrary to section 18 of the ACL?
- 12 Have the Plaintiff and Group Members suffered, and continue to suffer, the loss or damage of each losing bet placed with Entain using the Fast Code Service because of Entain's contravening conduct?

#### Contract

- 13 Did each Group Member make each bet using the Fast Code Service pursuant to a Bet Contract?
- 14 Did each Bet Contract contain the IGA Compliance Warranty?
- 15 Did Entain breach the IGA Compliance Warranty in the Bet Contract by accepting bets from the Plaintiff and Group Members using the Fast Code Service?
- 16 Does Entain continue to breach the IGA Compliance Warranty in the Bet Contract by accepting bets from the Plaintiff and Group Members using the Fast Code Service?
- 17 Have the Plaintiff and Group Members suffered, and continue to suffer, the loss or damage of each losing bet placed with Entain using the Fast Code Service because of Entain's breach of the IGA Compliance Warranty in the Bet Contract?

#### Illegality

- ~~18 Is each Group Member entitled to rescind the Bet Contract?~~
- 19 ~~Alternatively, is each Losing Bet Contract void or unenforceable?~~
- 20 If yes to ~~18 and/or~~ 19, is each Group Member entitled to restitution of all bets placed pursuant to a Losing Bet Contract?

#### Loss and damage

- 21 Are the Plaintiff and the Group Members entitled to an award of compensation for loss or damage by reason of any contraventions as alleged in the Statement of Claim:
  - (a) under section 236 of the ACL?

- (b) under section 237 of the ACL?
  - (c) at common law or equity?
- 22 Whether an award of damages in an aggregate amount pursuant to section 33Z(1)(e) or section 33Z(1)(f) of the *Supreme Court Act 1986* (Vic) ought be made, and in what amount?
- 23 If the answer to any of questions 4, 11 or 16 is yes, whether the Court should grant injunctive relief pursuant to the inherent jurisdiction of the Court, further or alternatively, section 232 of the ACL, restraining the Defendant from engaging in the conduct defined as the Fast Code Service?

Date: 1 December 2025

Philip Solomon

Jane Buncle