

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMON LAW DIVISION**

No. 4788 of 2009

BETWEEN:

CAROL ANN MATTHEWS

Plaintiff

and

**SPI ELECTRICITY PTY LTD (ACN 064 651 118)
& ORS (according to the schedule of parties)**

Defendants

(by original proceeding)

AND BETWEEN:

SPI ELECTRICITY PTY LTD (ACN 064 651 118)

Plaintiff by Counterclaim

and

**(ACN 060 674 580)
& ORS (according to the schedule of parties)**

Defendants by Counterclaim

(by counterclaim)

AFFIDAVIT OF ANDREW JOHN WATSON

Date of Document:	28 February 2017
Filed on behalf of:	The Plaintiff
Prepared by:	
Maurice Blackburn Lawyers	Solicitor's Code: 564
Level 10, 456 Lonsdale Street	Tel: (03) 9605 2700
Melbourne Vic 3000	DX: 466 Melbourne
	Ref: AW/3052491

I, Andrew John Watson, Solicitor, of Level 10, 456 Lonsdale Street, Melbourne in the State of Victoria, make oath and say as follows:

1. I am a Principal in the firm of Maurice Blackburn Pty Ltd (**Maurice Blackburn**), the solicitors for the Plaintiff in this proceeding and pursuant to the Orders of this Court dated 23 December 2014 I am the Scheme Administrator.




2. I make this affidavit from my own knowledge unless otherwise stated. Where statements are not made from my own knowledge, they are made to the best of my information and belief after due enquiry and I have set out the source of my information.
3. I make this affidavit for the purpose of providing the Court with an update on:
 - (a) the progress made in relation to the personal injury and dependency ("I-D") settlement distribution;
 - (b) the progress made in relation to the economic loss and property damage ("ELPD") settlement distribution;
 - (c) communications with group members;
 - (d) the settlement administration costs; and
 - (e) the taxation issues affecting the Distribution Sum.
4. The team of lawyers and paralegals employed by Maurice Blackburn who are working on administration of the Scheme are referred to in this affidavit as the **SDS Team**.
5. All references to the affidavit of Brooke Wendy Dellavedova sworn on 23 January 2017 will be marked as the **January affidavit**.

PROGRESS IN RELATION TO I-D SETTLEMENT DISTRIBUTION

Remaining Distributions

6. I refer to paragraph 19 of the January affidavit and confirm that there remain 10 I-D Claimants who are yet to receive their compensation. I confirm that reasons for delay in paying those Claimants are contained in paragraph 19 of the January affidavit. By way of update:

Deceased Estates

7. The SDS team continue to monitor and follow up the seven I-D claims in respect of deceased claimants. In relation to one of these I-D claims, the SDS Team have recently been provided with confirmation that probate has been granted and the SDS Team will commence taking steps to pay the estate shortly.




Family Law Disputes

8. The SDS Team still awaits Court orders in relation to the two remaining I-D Claimants who are subject to an ongoing family law dispute. The SDS Team is not able to process payment of settlement money until these orders have been received.

Payments to Third Parties

9. I refer to paragraphs 21 – 30 of the January affidavit and confirm that payment schedules have been prepared for those third parties who remain to be paid. These payment schedules have been sent to KPMG to review. These payments will be processed by the SDS Team once confirmation of their accuracy has been given by KPMG.

Department of Veterans' Affairs (DVA)

10. The one remaining I-D Claimant with DVA entitlements who is yet to receive their settlement money has met with Counsel to seek advice on the impact that their settlement money will have on their ongoing DVA entitlements. The SDS Team have been advised that the I-D Claimant may seek to challenge the DVA's determination of the impact of settlement money on ongoing entitlements. Depending upon the outcome of this I-D Claimant's dispute with the DVA, this I-D Claimant may ultimately elect not to receive compensation for their bushfire injuries through this settlement administration and the monies set aside for this I-D Claimant will consequently revert to the residual I-D distribution sum.

Unpresented cheques

11. On 10 February 2017, the SDS Team sent letters to the 38 I-D Claimants who as at that date our records indicated were yet to present their cheques but whose cheques had not as at that date been returned to Maurice Blackburn. 31 of these were sent via email and the remaining 7 were sent via priority post.
12. Since 21 February 2017, the SDS Team has been additionally calling these Claimants to enquire as to whether they had received their cheques and if so to encourage them to bank the cheques as soon as possible.
13. Of these 38 I-D Claimants:

- (a) 25 have responded confirming the cheques have been received but not yet banked for reasons such as being away on holidays, family disputes and not having had the opportunity to attend a bank. The SDS Team has encouraged these I-D Claimants to bank their settlement cheques as soon as they are able.
 - (b) 6 have confirmed that they have now banked their cheques;
 - (c) 2 have confirmed that they have not received their cheque and consequently the cheque has been cancelled and reissued as an EFT payment;
 - (d) As at 24 February 2017, the SDS Team has been unable to contact 4 of the 38 Claimants; and
 - (e) One has since been returned to sender to Maurice Blackburn and resent to the Claimant at an updated address.
14. The SDS Team will continue to monitor and contact those I-D Claimants who are yet to present their settlement cheques.
15. In the event that the SDS Team remain unable to contact the 4 Claimants referred to at paragraph 13(d) above by 14 June 2017, being the date on which the cheques will become invalid, I will make application to the Court to treat such claims as withdrawn and to treat the funds payable to such Claimants as reverting to the residual I-D distribution sum. At the time of making such application, I will detail all of the attempts made by the SDS Team to contact such Claimants.

Returned settlement monies

16. I refer to paragraph 31 of the January affidavit. I confirm that the two I-D Claimants referred to therein continue to refuse to accept their settlement cheques. I propose to hold these monies on trust until 6 June 2017. If the funds remain unclaimed by close of business on 6 June 2017, I will make application to the Court to treat these claims as being withdrawn and to treat the monies as forming part of the residual I-D distribution sum.
17. On 22 February 2017, the SDS Team sent letters via email and registered post to these two I-D Claimants putting them on notice of this application. The letter asked them to advise the SDS Team by close of business on 3 March 2017 if they had reconsidered accepting their compensation. Now produced and shown to me marked "Confidential Exhibit AJW-1" is a copy of these letters. These letters have been

marked confidential as they contain personal details of the two I-D Claimants. I will provide the Court with an update as to these I-D Claimants response on 6 March 2017.

Previously unpaid I-D Claimant – Claimant assessed but assessment data not included in pro rata calculation or final I-D payment schedule

18. It came to the attention of the SDS Team on 6 February 2017 that due to a data error, one I-D Claimant's personal injury compensation was not captured in the Matter Centre database at the time of the I-D final distribution. As a result of this data error, the personal injury assessed losses were not included in the data which was used as the basis for calculating the pro rata distribution rate and for making the final settlement distribution to I-D Claimants in December 2016. As such, the I-D Claimant was not paid their personal injury compensation at the time of the final I-D distribution in December.
19. Maurice Blackburn held on trust a finite pool of funds to distribute to personal injury group members in the Kilmore settlement administration (the PI Distribution Sum)
20. The recoverable proportion of each group member's assessed losses was calculated by dividing the total of all personal injury claimants' assessed losses (Total PI Assessed Losses) by the PI Distribution Sum. This calculation provided a pro rata recovery rate of 64.49710835%.
21. When the pro rata recovery rate was calculated in November 2016, the SDS Team relied upon the assessment data from Matter Centre. When this calculation was undertaken, the Claimant's personal injury assessment data was missing from Matter Centre and as such the Total PI Assessed Losses and therefore the pro rata recovery rate was inaccurate.
22. In December 2016, the personal injury distribution was effected on the basis of the pro rata rate i.e. the whole PI Distribution Sum was divided into individual payments.
23. As a result, there was no money set aside in the PI Distribution Sum for this I-D Claimant's compensation. In the interim, the I-D Claimant in question has been notified of the data error and been paid out the full amount of her compensation from Maurice Blackburn's office account.
24. If the Claimant's assessment data had been included in the calculation, and the assessment data in relation to the two late Centrelink election Claimants referred to in the January affidavit was amended to reflect these Claimants' assessed losses post the Centrelink election, the pro rata recovery rate would have been 64.2887%. As a result, I-D Claimants who received final settlement distributions in December 2016




were paid between \$0.33 (at the lowest end) and \$9,409.33 (for the highest compensation recipient) higher than what they otherwise would have received.

25. The I-D Claimant in question had both a personal injury claim and a dependency claim and as such had received both a Personal Injury Notice of Assessment and a Dependency Claim Notice of Assessment. Investigations are still ongoing as to why the data relating to the group member's personal injury claim did not appear in the Matter Centre data used to calculate the pro rata distribution as it had been previously entered in the system but it does appear have been an issue with the database program. The failure to identify the omission of this data in the external audit process occurred when the reviewer in effect assumed the Dependency Claim Notice of Assessment had replaced the Personal Injury Notice of Assessment.
26. The SDS Team has reviewed the assessment data used for the purposes of calculating the PI pro rata recovery rate and for undertaking the final I-D settlement distribution and confirmed that no other Claimants who had both personal injury and dependency claims assessment data was inaccurate.
27. I refer to paragraph 35 below which discusses the residual I-D distribution sum.
28. Once the I-D distribution has been fully effected, and the total quantum of the residual I-D distribution sum is known, I propose to file an application to seek permission to apply some or all of those funds towards the payment of this I-D claim.
29. Now produced and shown to me and marked "**Confidential Exhibit AJW-2**" is a confidential note containing details of the individual I-D Claimant's identity and assessment.

Potentially unpaid I-D Claimant – Claimant not assessed

30. It came to the attention of the SDS Team on 1 February 2017 that due to human error during the initial registration process in March 2013, an individual's I-D and ELPD registration had not been recorded and therefore their claim was not assessed in accordance with the SDS.
31. The claimant in question contacted the SDS Team in February 2015 and was advised that he was not registered in the class action. On 26 February 2015 the SDS Team sent the claimant a late registration form together with a letter stating that he needed to complete and return the form within 21 days of the letter. The claimant never returned the late registration form.




32. Notwithstanding the claimant's failure to return the late registration form, as a result of the claimant's earlier return of the registration form I determined to treat the claim as a valid claim and instructed the SDS Team to contact the claimant to obtain further details regarding his claim.
33. The SDS Team has determined from instructions obtained from this claimant that they have not suffered economic loss or property damage and as such their potential claim relates to personal injury only. Now produced and shown to me and marked "**Confidential Exhibit AJW-3**" is a confidential exhibit contains confidential details of the claimant's identity and personal circumstances.
34. The SDS Team will shortly take steps to assess this I-D Claimant's claim pursuant to the SDS. If this I-D Claimant is found to have compensable losses at the conclusion of the assessment process, I propose to file an application to seek permission to apply some or all of the residual I-D funds towards the payment of this I-D claim.

Residual I-D distribution sum

35. I refer to the January Affidavit which identifies a residual I-D distribution sum with a present balance of \$144,742.75. As is evident from this affidavit, it is apparent that this residual distribution sum may increase due to one or more of the following occurring:
 - (a) The remaining DVA Claimant electing not to receive compensation in this class action;
 - (b) Subject to the Court's approval, the treatment of the claims of uncontactable claimants as at 14 June 2017 as withdrawn claims;
 - (c) Subject to the Court's approval, the treatment of returned settlement monies as withdrawn claims; and/or
 - (d) A successful outcome in relation to the taxation dispute, resulting in funds withheld for the purposes of paying taxation becoming available for distribution to claimants.
36. I refer to paragraphs 28 and 34 above and confirm that once the quantum of the residual I-D distribution sum is known, I propose to file an application to seek to apply the residual I-D funds first towards payment of the two claims referred to at paragraphs 18 to 34 above and then towards a second I-D settlement distribution.




Finalising the I-D Distribution

37. The SDS Team is continuing to attend to the following:
- (a) Finalising payments to third parties;
 - (b) Responding to inquiries by I-D Claimants regarding their compensation and the settlement distribution process generally;
 - (c) Reconciling I-D Claimant data with presented cheques; and
 - (d) Identifying and following up any I-D Claimants who fail to present their cheques.
- The SDS Team will continue to monitor the status of settlement cheques.

PROGRESS IN RELATION TO ELPD SETTLEMENT DISTRIBUTION

Final Notice of Assessment Reviews

38. I refer to Section C of the January affidavit confirming that all ELPD Claimants had been issued with a Final Notice of Assessment (**FNOA**), and that completion of the ELPD Settlement Distribution process was pending the finalisation of FNOA Review assessments.
39. I refer to paragraphs 60 to 70 of the January affidavit. All review periods have now also expired and all pending FNOA Reviews have now also been finalised.
40. In total, the SDS Team received 18 FNOA reviews applications. Of these, 13 were referred to an ELPD Review Assessor as they required a formal review process. Of these reviews, 11 were reviews by above insurance claimants and 2 were on behalf of insurers.
41. Senior members of the SDS Team worked very closely with ELPD Review Assessors so as to minimise any delays to the estimated distribution date.
42. Ms Dellavedova, in her capacity as Scheme Administrator during my absence and senior members of SDS Team took a number of steps to expedite these reviews, including:
- (a) Monitoring all deadlines very closely and contacting ELPD claimants in advance of pending deadlines;




- (b) Granting bond waivers in circumstances where not doing so would likely delay the review process;
- (c) Contacting ELPD Claimants who intended to seek a FNOA review, and encouraging them to make a FNOA review in advance of their review period expiring;
- (d) Requesting ELPD Claimants waive their rights pursuant to E5.3 which provided them 21 days to return material where no further material was intended to be submitted; and
- (e) Arranging face-to-face conferences with ELPD Claimants and ELPD Review Assessors where appropriate to expedite the review process.


Finalising distribution

Estimated Timeline

- 43. I refer to paragraphs 91 to 99 of the January Affidavit as to the estimated timeline for distribution. I remain confident that ELPD distribution will occur by 7 April 2017.
- 44. Based on the small number of FNOA Reviews received, and the speed with which the ELPD Review Assessors were able to finalise these reviews, I now estimate that final distribution to ELPD Claimants may occur as early as late March. Such an outcome remains dependent on the completion of external audit processes and the finalisation of cheques by an external mailing house.

Internal Audit

- 45. The SDS Team has now sent all ELPD Claimants confirmation of the ELPD data recorded in Maurice Blackburn's Matter Centre database which will be the data relied upon for distribution of ELPD compensation. ELPD Claimants and insurers were requested to review their assessment data and to contact the SDS Team in response to the following issues:
 - (a) If any errors were identified;
 - (b) If the allocation of compensation was recorded incorrectly; and
 - (c) If the claimant needed to provide the SDS Team with updated contact details.

46. The SDS Team continues to conduct internal audits on an as-needs basis when new data such as updated assessment data following a successful review is added to the Matter Centre database.
47. The SDS Team has received a number of requests from ELPD Claimants to amend their name either because their legal name has changed or the legal name of the entity receiving compensation has changed. Senior members of the SDS Team are monitoring these changes to ensure that any compensation is distributed to the correct claimant.

External Audit

48. I refer to paragraphs 112 to 113 of the January affidavit regarding the external review of ELPD assessment data by KPMG.
49. Since the last Case Management Conference:
 - (a) KPMG have been sent a written letter of instruction regarding KPMG's independent review of ELPD claims. Now produced and shown to me and marked "Exhibit AJW-4" is a copy of the letter of instruction to KPMG.
 - (b) Senior members of the SDS Team have been assisting KPMG with their independent review, and providing further information as requested;
 - (c) Mr Kompos has indicated that his review should be finalised by 2 March 2017.

Estate Claims

50. I refer to paragraphs 142 – 160 of the January affidavit. I confirm that there are 14 estate claims where it has been determined that a grant of representation is required but has not yet been provided to the SDS Team.
51. As referred to at paragraph 133 of the January affidavit, where an estate is an ELPD Claimant but the executor is not known, and there are other ELPD Claimants who share losses with the estate claim, the allocation of compensation was marked as disputed as the estate is unable to provide instructions. In all such circumstances, ELPD compensation will be withheld from estate claimants and claimants that have joint losses with such estates until the grant of representation is provided.




Change in allocation of compensation

52. I refer to paragraphs 129 to 134 of the January Affidavit regarding amendments by ELPD Claimants to the allocation of compensation. In response to recent correspondence, the SDS Team have received amended instructions regarding the allocation of compensation from multiple ELPD Claimants. In preparation for distribution, the SDS Team have sent correspondence to affected ELPD Claimants to confirm any split amendments.

Recent update letter returned to sender

53. The SDS Team recently sent correspondence by post to all group members. Where this correspondence was subsequently 'returned to sender', the SDS Team have contacted ELPD Claimants to obtain updated contact details to facilitate compensation being distributed on time to these ELPD claimants, as final distribution payments will be sent via cheque.

Senior Master's Office

54. The SDS Team recently identified an additional four ELPD Order 15 Claimants. The identification of these claimants has necessitated work to confirm their legal incapacity, identification of their personal representative and to confirm the assessment and review process with the personal representative.
55. In accordance with section H of the Scheme, the Scheme Administrator during my absence, Brooke Dellavedova, provided the Senior Master's Office with an affidavit confirming compliance with the Scheme. The Senior Master's Office was provided with a register identifying each ELPD Order 15 Claimant, the contact details for their personal representative and final ELPD Assessments.
56. Compensation owed to Order 15 Claimants will be paid to Funds in Court upon receipt of Orders from Associate Justice Derham.

ELPD Distribution list

57. The SDS Team have established administrative procedures to identify the following:
- (a) ELPD Claimants who will receive their compensation by way of cheque from the external mailing house, Dynamic Direct;

- (b) ELPD Claimants who are homeless or have no fixed address, and will require an electronic funds transfer to be organised;
- (c) ELPD Claimants who are overseas and require an electronic funds transfer to be organised;
- (d) ELPD estate claimants who have not provided a grant of representation, and consequently compensation will need to be withheld;
- (e) ELPD Claimants with disputes regarding the allocation of compensation in relation to joint losses. These claimants will have their compensation withheld until a statutory declaration or Court Order is returned to the SDS Team to confirm the allocation of compensation;
- (f) Order 15 Claimants and ELPD Claimants at the same loss address can only be processed upon receipt of Orders from Associate Justice Derham;
- (g) Dissolved corporate entities can only be processed once issues related to the corporate structure have been resolved; and
- (h) ELPD Claimants that require compensation to be paid to a third party, such as a solicitors trust account pending resolution of legal proceedings.

INTERIM PAYMENTS

58. The SDS Team contacted ELPD claimants to advise that no further interim payment applications would be accepted after 14 February 2017. As at 17 February 2017, the Scheme Administrator has received 187 applications for interim payment.

UNCONTACTABLE ELPD CLAIMANTS

59. I refer to paragraphs 123 - 125 of the January affidavit in relation to uncontactable group members.
60. In relation to the 5 uncontactable group members who are eligible for compensation, their assessed losses on a 20% - 35% recovery rate, is approximately \$19,153.97 - \$33,519.45.
61. I proposed to hold the final settlement distributions for such group members on trust until the taxation issues are resolved. If the funds remain unclaimed at that time, subject to the Court's approval, I propose to treat these claims as being withdrawn and




to treat the monies as forming part of the residual ELPD distribution sum. I propose to use this remaining distribution sum to form part of a potential second ELPD distribution or to disburse it in accordance with Court orders.

CALCULATION OF ESTIMATED ELPD DISTRIBUTION SUM

62. The ELPD pro rata recovery rate will be calculated by dividing the ELPD Distribution Sum by the total ELPD assessed losses. Whilst all ELPD claims have now been finalised and the assessment data uploaded to Matter Centre, the process of review and verification of the assessment data in Matter Centre has not yet been completed. As such, at the time of swearing this affidavit, the ELPD pro rata rate has not yet been calculated.
63. However, in order to ensure that the review of the ELPD pro rata rate could be undertaken as soon as possible after its calculation, on 27 February 2017, the SDS Team provided Mr Kompos of KPMG with a draft ELPD Distribution Sum calculation for review. This calculation assumed that all extant and anticipated costs applications, including those made by way of this affidavit, would be successful. Now produced and shown to me and marked "**Exhibit AJW-5**" is the draft ELPD Distribution Sum calculation provided to Mr Kompos on 27 February 2017.
64. If some, or all, of the costs applications which have been assumed to be successful in the draft ELPD Distribution Sum are unsuccessful, then the draft calculation can be amended to reflect the costs as allowed and sent to Mr Kompos for re-review.
65. The draft ELPD Distribution Sum calculation takes into account each of the following additions and deductions to and from the Settlement Fund to enable the calculation of the sum available for distribution to ELPD Claimants:
 - (a) The addition of interest;
 - (b) The deduction of taxation liabilities and associated costs;
 - (c) The addition of interim payments made which would otherwise have remained in the Settlement Fund;
 - (d) The addition of recoverable review and bond costs payable to the Settlement Fund;
 - (e) The addition of the Murrindindi to Kilmore transfer payment;




- (f) The deduction of a contingency;
- (g) The deduction of an amount absorbed by the fund on account of altered PI Centrelink repayments in respect of several PI group members; and
- (h) The deduction of settlement administration costs.

Addition of interest

66. The draft ELPD pro rata calculation takes into account estimated interest earned on the Settlement Fund up until 28 February 2017 based on bank advice regarding same. This calculation date was chosen as I anticipate that the funds required to make the final ELPD settlement distribution will be required to be made available shortly after this date to enable claimants to receive funds by early April 2017.

Deduction of taxation and associated costs

67. The draft ELPD pro rata calculation deducts taxation payable consistent with:
- (a) the ATO's oral advice that all interest earned on the Distribution Sum is assessable and that settlement administration costs are not deductible; and
 - (b) PwC's advice that the applicable rate of taxation is 49%.

In addition deduction is made for the estimated maximum costs associated with the current dispute with the ATO re taxation.

Interim payments, review costs and bond repayments

68. The draft calculation takes into account:
- (a) interim payments made to date, treating such payments as deductions which have been made from the Settlement Fund which need to be added back into the fund prior to the calculation of ELPD pro rata recovery rate; and
 - (b) recoverable bond and review costs payable to the Settlement Fund on account of unsuccessful reviews under the Settlement Distribution Scheme, as such costs properly form part of the Settlement Fund and as such need to be added back in prior to the calculation of the ELPD pro rata recovery rate. The calculation treats the review costs of one claimant who will not be receiving any monies from this class action as unrecoverable, as I consider

that the costs of pursuing the unsuccessful claimant for payment of these costs would exceed the costs payable by such claimant.

The Murrindindi to Kilmore transfer payment

69. The draft ELPD pro rata calculation takes into account the transfer payment authorised by the Honourable Justice Dixon on 30 November 2016 from the Murrindindi Distribution Sum to the Kilmore Distribution Sum.

Deduction of contingency

70. In light of the matters referred to paragraphs 28 and 34 above, the considerable complexities associated with the administration of the ELPD settlement administration and the fact a second ELPD distribution would be necessary in the event of success in relation to the taxation dispute, I consider it prudent to reserve a small percentage contingency of 0.29% of the ELPD Distribution Sum to deal with any errors in the pro rata calculation.

Deduction of amount on account of altered Centrelink repayments

71. The draft ELPD Distribution Sum calculation takes into account the absorption by the fund of small increases to the Centrelink repayments owed by several PI group members which the SDS Team were notified of by Centrelink after the final settlement distribution cheques had been issued. The amounts in question are so small that the costs of pursuing the claimants in question for refund of these amounts would exceed the amounts in question.

Deduction of settlement administration costs

72. The draft ELPD pro rata calculation takes into account all settlement administration costs approved to date and, as foreshadowed above, assumes that all extant costs applications are successful. As such, the calculation takes into account:
- (a) ELPD settlement administration costs up to 30 June 2017;
 - (b) General settlement administration costs up to the end of settlement distribution; and
 - (c) I-D settlement administration costs up to 31 January 2017.

KPMG review of draft ELPD pro rata calculation




73. Once the ELPD assessment data has been finalised and its accuracy verified both internally and by KPMG, the SDS Team will calculate the ELPD pro rata recovery rate (being the ELPD Distribution Sum divided by the total ELPD assessed losses) for his review and verification. This will occur prior to the 6 March 2017 Case Management Conference. I will provide the Court with an update as to the ELPD pro rata calculation at such time.

COMMUNICATIONS WITH GROUP MEMBERS

74. An update was sent to ELPD Claimants on 3 February 2017 confirming:
- (a) The likely timeframe for the ELPD settlement distribution;
 - (b) An update on taxation issues;
 - (c) A request for updated contact details;
 - (d) Information regarding allocation of compensation;
 - (e) Information regarding dissolved legal entities; and
 - (f) Information regarding seeking financial advice.
75. Now produced and shown to me and marked "Exhibit AJW-6" is a copy of the update letter dated 3 February 2017.
76. Further correspondence was sent to claimants on 9 February 2017 with disputed allocations of compensation. This letter confirmed that the resolution of these disputes would be a matter for claimants. Further, the letter confirmed that any amendment to a disputed allocation would require court orders or statutory declarations from all claimants at a loss address and that in the absence of such agreement, the Scheme Administrator will continue to hold the compensation in trust.
77. Now produced and shown to me and marked "Exhibit AJW-7" is a copy of the update letter dated 9 February 2017.

SETTLEMENT ADMINISTRATION COSTS

Costs

78. Subject to the Court receiving a satisfactory report from Mr John White, Special Referee, Costs, appointed by the Court, I now seek approval for Maurice Blackburn to




be paid \$3,130,603.66 for settlement administration costs and disbursements comprised of:

- (a) \$120,108.05, being the estimated General settlement administration fees and disbursements between 1 January 2017 and 31 January 2017;
 - (b) \$473,063.32, being the estimated General settlement administration fees and disbursements between 1 February 2017 and finalisation of the settlement administration;
 - (c) \$441,408.22, being the ELPD settlement administration fees and disbursements incurred between 1 December 2016 to 31 December 2016;
 - (d) \$335,408.28, being the estimated ELPD settlement administration fees and disbursements between 1 January 2017 and 31 January 2017; and
 - (e) \$1,760,615.79, being the estimated ELPD settlement administration fees and disbursements between 1 February 2017 and 30 June 2017.
79. If the above estimates prove to be higher than the actual costs incurred for the relevant periods, I will account to the Court regarding any residual funds remaining and Maurice Blackburn will only be paid the amounts actually incurred for the relevant periods.
80. In previous affidavits, I have set out extensive detail regarding the nature of the work performed by the SDS Team and the disbursements incurred by the Scheme. This information has been provided to Mr White for the purposes of his review of our costs and I do not propose to repeat it here.
81. Now produced and shown to me and marked "**Exhibit AJW-8**" is a copy of the finalised itemised invoice for the ELPD fees and disbursements currently recorded for the period 1 December 2016 to 31 December 2016. This itemised invoice has been redacted to remove the following confidential and privileged information pursuant to the orders of the Honourable Justice Forrest of 21 February 2017:
- (a) the names and addresses of claimants;
 - (b) medical information relating to individual claimants;
 - (c) information relating to or referring to family law disputes between individual claimants;




- (d) estate disputes between individual claimants; and
- (e) the names of junior solicitors, trainee lawyers, paralegals and administrative assistants employed by Maurice Blackburn.

Amended costs application

82. I refer to paragraph 185 of the January Affidavit, in which Ms Dellavedova sought approval for I-D Costs for the period 1 November 2016 to 31 December 2016 of \$431,232.95. This amount included an amount in relation to an invoice from KPMG dated 19 January 2017 which as at the date of Ms Dellavedova swearing the Affidavit not yet been processed.
83. Since that time, it has come to my attention that the amount sought in relation to the KPMG invoice failed to take into account GST and Technology and Administrative charges claimed by KPMG. As such, I seek approval from the Court for payment of the amount of \$432,063.52 for I-D Costs for the period 1 November 2016 to 31 December 2016, which accounts for these fees.
84. Now produced and shown to me and marked "**Exhibit AJW-9**", is a copy of the finalised itemised invoice for the I-D fees and disbursements currently recorded for the period 1 December 2016 to 31 December 2016. This itemised invoice has been redacted to remove the following confidential and privileged information pursuant to the orders of the Honourable Justice Forrest of 21 February 2017:
- (a) the names and addresses of claimants;
 - (b) medical information relating to individual claimants;
 - (c) information relating to or referring to family law disputes between individual claimants;
 - (d) estate disputes between individual claimants; and
 - (e) the names of junior solicitors, trainee lawyers, paralegals and administrative assistants employed by Maurice Blackburn.




TAXATION ISSUES

85. I refer to paragraphs 203 – 207 as well as the Confidential Exhibit BWD12 of the January affidavit.
86. As referred to in paragraph 206 of the January affidavit, I and other members of the SDS Team continue to work closely with our taxation advisors PwC and counsel on this issue.
87. Now produced and shown to me marked “**Confidential Exhibit AJW-10**” is a summary of progress made since the January Case Management Conference. I make application for this exhibit to be confidential so as to ensure the maintenance of privilege.

SWORN by the deponent at)
 Brisbane in the State of)
 Queensland this 28th day of)
 February 2017)

Before me:

FILED on behalf of the Plaintiff

JARRAH NINA EKSTEIN
 of Level 32, 201 Elizabeth Street, Sydney
 an Australian Legal Practitioner
 within the meaning of the Legal
 Profession Uniform Law (NSW)