

Listing Details

Heard at: **26/08/2020**by: **Justice J Ward Chief Judge in Equity;****Supreme Court Sydney****Supreme Court - Civil**

2018/00310118-001

Justice J Ward Chief Judge in Equity

Directions

Komlotex Pty Ltd v AMP LIMITED

10:00 AM

1 HOURS

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Date of Listing: 26 Aug 2020 before Justice J Ward Chief Judge in Equity at Supreme Court - Civil, Supreme Court Sydney**Appearances:**

AMP LIMITED, Defendant , No Appearance

Fernbrook (Aust) Investments Pty Ltd, Plaintiff , No Appearance

Komlotex Pty Ltd, Plaintiff , No Appearance

2018/00310118-001 / Statement of Claim: Komlotex Pty Ltd v AMP LIMITED /

This matter is listed for Directions on 3 May 2021 9:30 AM before the Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 10 Minutes

The following hearing dates are vacated:

03 Mar 2021 09:30 AM

Reason: By Consent

ORDERS:

Her Honour, Ward CJ in Eq, makes the following orders:

1. Make orders sought in the Short Minutes of Order provided to the court other than the proposed additional orders 20 and 21.

Short Minutes of Order:

Expert Evidence and Opt Out Date

1. On or before 18 December 2020, the Plaintiffs serve any material on quantum and materiality upon which they intend to rely at mediation on a without prejudice basis.

2. On or before 9 March 2021, the Defendant serve any material on quantum and materiality upon which it intends to rely at mediation on a without prejudice basis.

3. Nothing in orders 1 and 2 prevents either party from filing and serving supplementary evidence on quantum and materiality at a later stage in the proceedings, by a date to be ordered.

4. Pursuant to section 162 of the Civil Procedure Act 2005 (NSW) (the Act), 4.00pm (AEDT) on 23 November 2020 (the Class Deadline) be fixed as the date before which a Group Member (as defined in the Amended Commercial List Statement filed on 5 August 2019) may opt out of the proceeding.

Opt Out Notice

5. Pursuant to section 176(1) of the Act, the form and content of the notice (Notice to Group Members) in Schedule A, and the abridged notice (Abridged Notice) in Schedule B be approved.

6. Pursuant to s 183 of the Act, the notice set out in Schedule C to this Order that is a modification of Form 115 (Opt Out Notice) be approved for this proceeding for the purpose of r 58.2(1) of the Uniform Civil Procedure Rules 2005 (NSW).

7. Pursuant to s 176(2) of the Act, notice is to be given to group members by no later than 4pm on 14 September 2020 according to the following procedure:

a. the Plaintiffs are to display the Notice to Group Members and Opt Out Notice on the plaintiffs' solicitor's website, www.mauriceblackburn.com.au, continuously until the Class Deadline;

b. the Plaintiffs are to deliver the Notice to Group Members and the Opt Out Notice to the contact email address where an email is available, or failing that, by ordinary mail, to each Group Member who is a client of the Plaintiffs' solicitors or whom they are otherwise aware;

c. the Defendant is to cause the Notice to Group Members and the Opt Out Notice to be sent to each person or entity listed in the defendant's share register as having purchased shares in the defendant between 10 May 2012 and 13 April 2018 inclusive, such notices to be sent by email where an email address is available, or failing that, by ordinary mail;

d. the Plaintiffs are to cause an advertisement in the terms of the Abridged Notice (Schedule B) to be published in the legal notices or equivalent section in one week day edition of The Australian Financial Review.

8. The Defendant will provide to the Plaintiffs an estimate of the disbursement costs of the Defendant in complying with Order 7(c) above, and the costs shall be paid by the Plaintiffs in the first instance but shall be costs in the cause.

9. Pursuant to s 162(2) of the Act and r 58.2(1) of the UCPR, any Group Member who wishes to opt out of this proceeding must, on or before the Class Deadline, deliver an Opt Out Notice to the Registry of the New South Wales Supreme Court.

10. If, on or before the Class Deadline, the solicitors for any party receive a notice purporting to be an opt out notice referable to this proceeding, those solicitors are to file such notice in the Registry of the Supreme Court of New South Wales within 7 days of receiving it and the notice shall be treated as an Opt Out Notice received by the Court at the time when it was received by the solicitors.

11. The solicitors for the Plaintiffs and the Defendant be granted leave to inspect the Court file and to copy any opt out notices filed by group members.

Claim Registration

12. Subject to order 14 below, pursuant to section 183 of the Act, any Group Member who wishes to register their claim in this proceeding at this stage, should by the Class Deadline:

a. submit a completed registration form in a form set out in Schedule D to this Order (Registration Form) through the MMP

- a. submit a completed registration form in a form set out in Schedule D to this Order (Registration Form) through the AMP Shareholder Class Action Claims Registration' webpage established on the website of the Plaintiffs' solicitors; or
- b. complete a hard-copy Registration Form and return it to the Plaintiffs' solicitors at Level 8, 179 North Quay Brisbane Qld 4000,
(New Registered Group Members).

13. In completing the Group Member Registration Form, and in order to register for the purpose of Order 12 above, each Group Member will be required to submit:

- a. the Group Member's name and address and/or email address;
- b. any relevant Holder Identification Number (HIN) or Security Reference Number (SRN), if available;
- c. the number of AMP securities held by each Group Member immediately prior to the commencement of trade on 10 May 2012;
- d. for each acquisition:
 - i. transactional information consisting of the date of acquisition, the quantity of securities acquired, the price per security paid and the brokerage paid, regarding AMP securities acquired from 10 May 2012 to 13 April 2018 (inclusive); and
 - ii. total amount paid (net of brokerage) in respect of the acquisition, if available;
- e. for each sale:
 - i. transactional information consisting of the date of sale, the quantity of securities sold, the price per security and the brokerage paid regarding AMP securities sold from 10 May 2012 to 13 April 2018 (inclusive); and
 - ii. total amount received (net of brokerage) in respect of the acquisition, if available.

14. A Group Member will be deemed to have complied with Order 12 above if, by the Class Deadline:

- a. that Group Member has retained Maurice Blackburn in writing to act for that Group Member in connection with this proceeding (Existing Registered Group Members); and
- b. to the extent they have not already done so, that Group Member provides to Maurice Blackburn the same information as New Registered Group Members are required to submit pursuant to Order 13 above.

15. By 4:00pm AEDT on 18 December 2020, the Plaintiffs must deliver to the solicitors for the Defendant (in electronic form), a de-identified version of the information referred to in Order 13 in respect of each of the Existing Registered Group Members and New Registered Group Members.

16. The Notice to Group Members, the Abridged Notice, the Opt Out Notice and the Registration Form approved pursuant to Orders 5, 6 and 12 above, may be amended by the Plaintiffs before they are emailed, posted, displayed or published in order to correct any website or email address or telephone number or other non- substantive error.

Mediation

17. Mediation in this matter is to be conducted no later than 23 April 2021. In the absence of agreement by the parties as to a mediator, the mediation shall be conducted by a person to be appointed by the Court.

Other Orders

18. The proceedings be listed for further directions on 3 May 2020 at 9.30am.

19. The parties have liberty to apply on 48 hours' written notice. (ID 51181442)